



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **EARLY LEARNING AND CHILD CARE ACT**

## PLEASE NOTE

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

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## EARLY LEARNING AND CHILD CARE ACT

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## EARLY LEARNING AND CHILD CARE ACT

### CHAPTER E-.01

### PART 1 — INTERPRETATION AND APPLICATION

#### 1. Definitions

In this Act

- (a) “**administrator**” means an individual appointed by an operator to provide on-site supervision of the day-to-day activities of a centre, and includes an operator who carries out these duties;
- (b) “**Appeal Board**” means the Appeal Board established under the regulations;
- (c) “**associated person**” means, in respect of a centre, a person of a prescribed class or type who is deemed to be associated with the centre under the regulations;
- (d) “**Board**” means the Early Learning and Child Care Board continued under section 6;
- (e) “**centre**” means an early learning and child care centre at which services are provided;
- (f) “**certificate**” means a certificate issued to an individual under section 28 or renewed under section 34;
- (g) “**certificate holder**” means an individual who is certified by the Board in early learning and child care and holds a certificate or a probationary certificate;
- (h) “**child**” means a person who is 12 years of age or under;
- (i) “**child care**” means the provision of care, support and attention to the needs of a child in the absence of the child’s parent or guardian;
- (j) “**early learning**” means the provision of developmentally- appropriate curriculum or programs to infants and preschool children;
- (k) “**former Act**” means the *Child Care Facilities Act* R.S.P.E.I. 1988, Cap. C-5;
- (l) “**infant**” means a child who is under 22 months of age;
- (m) “**licence**” means a licence issued to a person under section 16 or renewed under section 22;
- (n) “**licensed centre**” means a centre for which its operator holds a licence or a probationary licence;
- (o) “**Minister**” means the Minister of Education and Early Years, and includes any person designated by the Minister to act on the Minister’s behalf;
- (p) “**operator**” means a person that operates and owns a centre;
- (q) “**person**” includes a partnership;
- (r) “**preschool child**” means a child who is 22 months of age or over but is not a school-age child;
- (r.1) “**probationary certificate**” means a probationary certificate issued under section 53;

- (s) “**Registrar**” means the Registrar designated by the Minister under section 10;
- (t) “**school-age child**” means a child who is of an age at which the child is entitled to attend school or will be entitled to attend school within the next three months, in accordance with the *Education Act* R.S.P.E.I. 1988, Cap. E-.02;
- (u) “**services**” means services related to early learning and child care;
- (v) “**staff member**” means an individual who works at a centre in either an employment or volunteer capacity. *2010,c.8,s.1; 2015,c.28,s.3; 2015,c.24,s.1; 2017,c.5,s.1; 2019,c.1,s.3; 2022,c.73,s.1; 2023,c.20,s.2.*

## 2. Application

This Act does not apply to

- (a) child care provided by persons to their own children, grandchildren, brothers, sisters, nieces or nephews;
- (b) services regulated by the *Education Act* R.S.P.E.I. 1988, Cap. E-.02;
- (c) child care provided by hospitals to children who are patients in the hospitals;
- (d) child care provided by a church during its service or as a part of religious instruction, which child care does not exceed five hours per week;
- (e) child care provided to children in camps operated for holiday periods;
- (f) a community, sport, recreation, artistic or other type of children’s program dedicated to a particular activity or pursuit;
- (f.1) the supervision of children at a recreational facility, retail centre or other commercial establishment where responsibility for the care of each child on the premises remains with a parent or guardian of the child;
- (g) services provided in a group home or foster home recognized as such by the Minister;  
or
- (h) such other services set out by the regulations. *2010,c.8,s.2; 2015,c.24,s.2; 2016,c.6,s.114; 2017,c.5,s.2.*

## 3. Administration

The Minister is responsible for the administration of this Act. *2010,c.8,s.3.*

## 4. Directives

The Minister may issue directives, not inconsistent with this Act or the regulations, respecting policies, guidelines and rules for the provision and coordination of services by licensed centres, for the operation of licensed centres and for the administration of this Act and the regulations, including

- (a) the curriculum to be delivered in licensed centres, including those that have an Early Years designation;
- (b) the training required of and to be provided to staff members;
- (c) the service quality measures for centres;
- (d) the wages and benefits for staff members in licensed centres that have an Early Years designation issued by the Minister;
- (e) the fees that may be charged for services by licensed centres that have an Early Years designation issued by the Minister;

- (f) the assessment of the available capacity in licensed centres and the demand for services in a geographic area;
- (g) licensed centre funding models; and
- (h) such other matters as the Minister considers necessary. *2010,c.8,s.4; 2015,c.24,s.3.*

**5. Minister's request for information**

- (1) The Minister may request the Board to provide information respecting any matter related to the administration and provision of early learning and child care in the province and the Board shall provide the information to the Minister.

**Operators**

- (2) The Minister may request an operator to provide information respecting any matter related to the administration and provision of services at a licensed centre operated by the operator, and the operator shall provide the information to the Minister. *2010,c.8,s.5; 2014,c.24,s.4.*

## **PART 2 — EARLY LEARNING AND CHILD CARE BOARD**

**6. Board**

The Child Care Facilities Board, established under the former Act, is continued as a body corporate under the name “Early Learning and Child Care Board”. *2010,c.8,s.6.*

**7. Composition of Board**

- (1) The Board shall be composed of nine members, appointed by the Minister, of whom
  - (a) one shall be an employee of the Environmental Health Office of the Department of Health and Wellness;
  - (b) one shall be an employee of the Department of Education and Early Years;
  - (c) one shall be a representative of the La Fédération des Parents de l'Île-du-Prince-Édouard Inc.;
  - (d) two shall be members representing the Early Childhood Development Association of Prince Edward Island;
  - (e) three shall be members of the public at large, with one of these members representing Kings County, one representing Queens County and one representing Prince County; and
  - (f) one shall be a public officer, appointed by the Minister to be chairperson of the Board.

**Term of appointment**

- (2) Members of the Board shall be appointed for a three-year term and may be reappointed.

**Vacancy**

- (3) Where a member of the Board ceases to hold office before his or her term expires, the Minister may appoint a new member to hold office.

**Continued membership after expiry of term**

- (4) A member of the Board continues to hold office after the expiry of his or her term as a member of the Board until the member is reappointed or a successor is appointed.

**Remuneration and expenses**

- (5) The members of the Board shall be paid such remuneration and be reimbursed for such expenses by the Department of Education and Early Years, as the Lieutenant Governor in Council considers appropriate.

**Quorum**

- (6) A majority of the members of the Board constitutes a quorum.

**Initial Board members**

- (7) Notwithstanding subsection (1), the persons appointed as members of the Child Care Facilities Board under clauses 4(1)(a), (b), (c), (d) and (e) of the former Act who, immediately before the coming into force of this section, were members of the Child Care Facilities Board are deemed, on the coming into force of this subsection, to be members of the Board until the Minister appoints the members of the Board in accordance with clauses 7(1)(a), (b), (d), (e) and (f) respectively, at which time the appointments of the members appointed under the former Act are revoked. *2010,c.8,s.7; 2015,c.28,s.3; 2019,c.1,s.3; 2023,c.20,s.2.*

**8. Purpose**

The purpose of the Board is to monitor the operation of licensed centres in the province and the services that are provided in such centres. *2010,c.8,s.8; 2015,c.24,s.5.*

**9. Functions**

The functions of the Board are

- (a) to issue licences authorizing a person to operate a centre;
- (b) to certify, and provide direction to the Registrar in respect of certifying, qualified individuals;
- (c) to advise the Minister on
  - (i) the minimum qualifications required by the regulations for certification,
  - (ii) the minimum standards for the licensing of centres required by the regulations for the issuance of a licence to a person in respect of centres,
  - (iii) the practise standards established by the regulations in respect of the provision of child care and early learning programs to children attending centres,
  - (iv) programming and curriculum standards, and
  - (v) issues concerning the early learning and child care system; and
- (d) to carry out such other functions and responsibilities assigned to it under this Act, the regulations and the Minister's directives. *2010,c.8,s.9; 2022,c.73,s.2.*

**10. Staff, Registrar and inspectors**

- (1) The Minister shall designate persons employed in the public service of the province in the Department of Education and Early Years to be
- (a) resource staff for the Board;
  - (b) the Registrar; and
  - (c) inspectors,
- for the purposes of this Act.

**Duties**

- (2) The persons designated under subsection (1) shall, under the direction of the Board, carry out the duties assigned to them by this Act, the regulations and the Minister's directives and such other duties as may be assigned to them by the Board.

**Senior inspector**

- (3) The Minister shall designate an inspector as a senior inspector for the purposes of section 47.2. *2010,c.8,s.10; 2015,c.28,s.3; 2017,c.5,s.3; 2019,c.1,s.3; 2023,c.20,s.2.*

**11. Delegation**

The Board may delegate to the Registrar its responsibilities to review and determine applications for certification. *2010,c.8,s.11; 2022,c.73,s.3.*

**12. Certificate of designation**

The Minister shall issue to an inspector a certificate of designation bearing the Minister's signature or a facsimile of it. *2010,c.8,s.12.*

**PART 3 — EARLY LEARNING AND CHILD CARE CENTRES**

**13. General prohibition**

No person shall operate a centre except in accordance with this Act, the regulations and the Minister's directives. *2010,c.8,s.13.*

**14. Licence required**

- (1) Subject to subsection (2), no person shall operate a centre unless that person holds a licence for that centre.

**Exception**

- (2) A person may operate a centre without a licence where the person does not provide services at the centre to more than
- (a) five children, including those of the operator, where the group includes an infant or infants, provided that the group does not contain more than two infants;
  - (b) six children, including those of the operator, where the group consists solely of preschool children or a combination of preschool children and school-age children; or
  - (c) seven children, including those of the operator, where the group consists solely of school-age children. *2010,c.8,s.14; 2017,c.5,s.4.*

**14.1 Misrepresentation respecting licensed centre**

- (1) No person shall represent or hold out that he or she operates a licensed centre unless the person holds a licence or a probationary licence for the centre.

**Use of "licensed"**

- (2) No operator shall use the term "licensed" in the name of a centre or refer to a centre as being licensed in an advertisement for the centre unless the operator holds a licence or a probationary licence for the centre.

**Idem**

- (3) Subsection (2) also applies with respect to the use of
- (a) a variation, an abbreviation or an abbreviation of a variation of the term “licensed”;
  - (b) a term, in a language other than English, which is equivalent to the term “licensed” or a variation, abbreviation or abbreviation of a variation of that term. *2015,c.24,s.6.*

**14.2 Misrepresentation respecting approval or sanction of Board**

No person shall represent or hold out that he or she operates a centre that has been approved or otherwise sanctioned by the Board unless the person holds a licence or a probationary licence for the centre. *2015,c.24,s.6.*

**15. Application for licence**

- (1) A person may apply to the Board, in the form required by the Board, for a licence to operate a prescribed category of centre.

**Documents and fee**

- (2) An application for a licence shall be accompanied by the documents and the fee required by the regulations.

**Age requirement**

- (3) No person who is under 18 years of age may apply for a licence. *2010,c.8,s.15; 2015,c.24,s.7.*

**16. Issuing licence**

- (1) Subject to section 20, the Board may issue a licence to a person if the Board is satisfied that
- (a) the person has submitted the required application, prescribed documents and prescribed fee in accordance with section 15; and
  - (b) the person, the premises where the centre will operate and the services to be provided in the operation of the centre meet the requirements set out by regulation.

**Terms or conditions**

- (2) On issuing a licence, the Board may place on the licence any term or condition that the Board considers appropriate.

**Term of licence**

- (3) A licence shall be issued for a term of three years.

**Licence information**

- (4) A licence shall indicate the following information:
- (a) the name of the operator to whom it is issued;
  - (b) the location of the premises at which the centre shall operate under the licence;
  - (c) the prescribed category of the centre;
  - (d) the maximum number of children who may receive services at the centre;
  - (e) the ages of the children who may receive services at the centre;
  - (f) the expiry date of the licence;
  - (g) any terms or conditions placed on the licence by the Board. *2010,c.8,s.16; 2015,c.24,s.8.*

**17. Terms and conditions**

A licence is subject to the following:

- (a) this Act, the regulations and the Minister's directives that apply to the licence;
- (b) the terms or conditions placed on the licence under subsection 16(2). *2010,c.8,s.17.*

**18. Licence not transferable, exception**

An operator may not transfer or assign a licence to another person without the prior approval of the Board in accordance with the regulations. *2010,c.8,s.18.*

**19. Expiry**

A licence expires at the end of the term of the licence unless it is renewed. *2010,c.8,s.19.*

**20. Refusal to issue a licence**

The Board may refuse to issue a licence to a person in any of the following circumstances:

- (a) the Board is not satisfied that the requirements in subsection 16(1) have been met;
- (b) the Board has reasonable grounds to believe that the person knowingly made a false statement in the application or accompanying documents;
- (c) the Board has reasonable grounds to believe that an associated person of the centre is not suitable to have contact with children receiving services at the centre;
- (d) the Board has reasonable grounds to believe that, in the geographic area where the centre would operate, the available capacity in existing licensed centres meets or exceeds the demand for services;
- (e) the Board has reasonable grounds to believe that issuing a licence to the person could have a detrimental effect on the availability or quality of services in the province;
- (f) other circumstances as set out by regulation. *2010,c.8,s.20; 2015,c.24,s.9.*

**21. Application to renew licence**

- (1) An operator may apply to the Board in the form required by the Board to renew a licence held by the operator.

**Documents and fee**

- (2) An application for the renewal of a licence shall be accompanied by the documents and the fee required by regulation. *2010,c.8,s.21; 2015,c.24,s.10.*

**22. Renewing licence**

- (1) Subject to section 23, the Board may renew the licence of an operator if the Board is satisfied that
  - (a) the operator has submitted the required application, prescribed documents and prescribed fee in accordance with section 21; and
  - (b) the operator, the premises where the licensed centre operates and the services provided in the operation of the licensed centre meet the requirements set out by regulation.

**Application**

- (2) Subsections 16(2) to (4) apply with the necessary modifications to the renewal of a licence. *2010,c.8,s.22; 2015,c.24,s.11.*

**23. Refusal to renew licence**

The Board may refuse to renew the licence of an operator in any of the following circumstances:

- (a) the Board is not satisfied that the requirements in subsection 22(1) have been met;
- (b) the Board has reasonable grounds to believe that the operator knowingly made a false statement in the application or accompanying documents;
- (c) the Board has reasonable grounds to believe that an associated person of the licensed centre is not suitable to have contact with children receiving services at the licensed centre;
- (d) other circumstances set out by regulation. *2010,c.8,s.23; 2015,c.24,s.12.*

**24. Continuation of licence**

When an operator applies to the Board to renew a licence before the licence expires, the licence shall be deemed to continue until

- (a) the Board renews the licence; or
- (b) the Board refuses to renew the licence. *2010,c.8,s.24.*

**25. Time period**

A person

- (a) who is refused a licence;
- (b) who is refused renewal of a licence;
- (c) whose licence is revoked under section 50; or
- (d) who is an associated person of a person listed in clauses (a) to (c),

is not eligible to apply for a licence for the period of time set out by the regulations. *2010,c.8,s.25.*

**26. General prohibition**

No person shall provide services to a child in a licensed centre except in accordance with this Act, the regulations and the Minister's directives. *2010,c.8,s.26; 2015,c.24,s.13.*

**26.1 Prohibition, misrepresentation of certification**

No individual, other than a certificate holder, shall represent or hold out that the individual is certified or use a title, name, description, abbreviation or derivative, prescribed or otherwise, in any language implying that the individual is certified. *2015,c.24,s.14; 2022,c.73,s.4.*

**27. Application for certification**

- (1) An individual may apply to the Board in the form required by the Board for certification at a prescribed level to provide services to a child in a centre.

**Documents and fee**

- (2) An application for certification shall be accompanied by the documents and the fee required by the regulations. *2010,c.8,s.27; 2015,c.24,s.15; 2022,c.73,s.5.*

**28. Certification**

- (1) Subject to section 32, the Board may certify an individual at a prescribed level if the Board is satisfied that
- (a) the individual has submitted the required application, prescribed documents and prescribed fee in accordance with section 27; and
  - (b) the individual meets the requirements set out by regulation.

**Terms or conditions**

- (2) The Board may place on a certification any terms or conditions that the Board considers appropriate.

**Term of certification**

- (3) A term of certification shall not exceed three years.

**Certificate**

- (4) On certifying an individual, the Board shall issue a certificate to the individual containing the following information:
- (a) name of the individual;
  - (b) certification level;
  - (c) expiry date;
  - (d) any terms or conditions. *2010, c.8, s.28; 2015, c.24, s.16; 2022, c.73, s.6.*

**29. Rights and privileges, limitations**

Any rights and privileges of certification are subject to the Act, the regulations, the Minister's directives and any terms or conditions placed on the certification. *2010, c.8, s.29; 2022, c.73, s.7.*

**30. Certificate not transferable**

A certificate holder may not transfer or assign a certificate to another individual. *2010, c.8, s.30.*

**31. Expiry**

A certificate expires at the end of the term of the certificate unless it is renewed. *2010, c.8, s.31.*

**32. Refusal to certify**

The Board may refuse to certify an individual in any of the following circumstances:

- (a) the Board is not satisfied that the requirements in subsection 28(1) have been met;
- (b) the Board has reasonable grounds to believe that the individual knowingly made a false statement in the application or accompanying documents;
- (c) the Board has reasonable grounds to believe that the individual is not suitable to have contact with children receiving services at a centre;
- (d) other circumstances set out by regulation. *2010, c.8, s.32; 2015, c.24, s.17; 2022, c.73, s.8.*

**33. Application to renew certification**

- (1) Subject to the regulations, a certificate holder may apply to the Board in the form required by the Board to renew the certificate holder's certification.

**Documents and fee**

- (2) An application to renew one's certification shall be accompanied by the documents and the fee required by the regulations. *2010,c.8,s.33; 2015,c.24,s.18; 2022,c.73,s.9.*

**34. Renewing certification**

- (1) Subject to section 35 and the regulations, the Board may renew a certificate holder's certification if the Board is satisfied that
- (a) the certificate holder has submitted the required application, prescribed documents and prescribed fee in accordance with section 33; and
  - (b) the certificate holder meets the requirements set out by regulation.

**Application of preceding provisions**

- (2) Subsections 28(2) to (4) apply with the necessary modifications to the renewal of a certificate holder's certification. *2010,c.8,s.34; 2015,c.24,s.19; 2022,c.73,s.10.*

**35. Refusal to renew certification**

The Board may refuse to renew a certificate holder's certification in any of the following circumstances:

- (a) the Board is not satisfied that the requirements in subsection 34(1) have been met;
- (b) the Board has reasonable grounds to believe that the certificate holder knowingly made a false statement in the application or accompanying documents;
- (c) the Board has reasonable grounds to believe that the certificate holder is not suitable to have contact with children receiving services at a centre;
- (d) other circumstances set out by regulation. *2010,c.8,s.35; 2015,c.24,s.20; 2022,c.73,s.11.*

**36. Certification pending decision of Board**

- (1) Subject to the regulations, where a certificate holder applies to the Board to renew the certificate holder's certification before it expires, the certification is deemed not to expire pending the Board's decision to renew or not to renew the certification.

**Certification pending appeal**

- (2) Where an individual requests under subsection 57(3) that the Appeal Board review a decision of the Board not to renew the individual's certification, the individual is deemed to be certified pending the determination of the Appeal Board in the matter. *2010,c.8,s.36.; 2022,c.73,s.12*

**Requirements of Early Learning and Child Care Centres**

**37. Location of operation**

No operator of a licensed centre shall operate the centre at any premises other than at the premises specified in the licence issued to the operator. *2010,c.8,s.37.*

**38. Transportation of children**

An operator of a licensed centre who transports or provides for the transportation of children receiving services at the centre shall ensure that the transportation is carried out in accordance with the requirements set out by the regulations. *2010,c.8,s.38.*

**39. Curriculum framework**

- (1) When providing services to a child in a licensed centre, the operator shall use a curriculum framework provided by the Minister.

**Alternative program**

- (2) Notwithstanding subsection (1), on the application of an operator, the Board may permit the operator to use an alternative program to a curriculum framework provided by the Minister, if the Board is satisfied that the alternative program meets the requirements set out by regulation. *2010, c.8, s.39; 2015, c.24, s.21.*

**40. Staff requirements**

The operator of a licensed centre shall ensure that the requirements imposed by this Act, the regulations and the Minister's directives for certificate holders are met, in relation to the operator's centre, in accordance with this Act, the regulations and the Minister's directives. *2010, c.8, s.40.*

**41. Records and other documents**

- (1) The operator of a licensed centre shall maintain those records and documents required by the regulations.

**Filing records and documents**

- (2) The operator of a licensed centre shall file with the Board those records and documents requested by the Board within the time specified by the Board. *2010, c.8, s.41.*

**42. Duty to post**

The operator of a licensed centre shall post the following documents in a clearly visible and prominent place in the licensed centre:

- (a) the operator's licence or probationary licence;
- (b) a copy of the report provided to the operator under section 44 regarding the most recent inspection of the centre;
- (c) any order issued under section 48, until the Board advises the operator that the Board is satisfied the order has been complied with. *2010, c.8, s.42; 2015, c.24, s.22.*

## **Inspections of licensed centres**

**43. Inspection of centres**

- (1) Inspectors shall
- (a) on the request of the Board, inspect centres in respect of which an application for a licence has been made to the Board; and
  - (b) make periodic inspections of centres in respect of which a licence has been issued to the centres by the Board.

**Power to enter**

- (2) An inspector may, at all reasonable times, including the hours of operation of the centre, and on production of his or her identification or certificate of designation, enter a centre and carry out any inspection of the centre.

**Duty of operator**

- (3) Every operator or administrator of a centre shall
- (a) cause the centre to be open for inspection by an inspector at all reasonable times, including the hours of operation of the centre; and
  - (b) cause all records pertaining to the operation of the centre to be available for inspection by an inspector during the times described in clause (a).

**Application for warrant**

- (4) Where an inspector believes, on reasonable grounds, that
- (a) an offence against this Act or the regulations has occurred at any premises or place, including a private dwelling; and
  - (b) the person in charge of such premises or place has refused or will refuse the inspector entry to such premises or place,

the inspector may apply to a judicial justice of the peace or a judge for the issuance under subsection (5) of a warrant to enter and inspect that premises or place.

**Issuance of warrant**

- (5) Where a judicial justice of the peace or a judge is satisfied by information on oath that there are reasonable grounds to believe that
- (a) an offence against this Act or the regulations has occurred; and
  - (b) there is evidence of an offence against this Act or the regulations to be found at the premises or place to be entered,

the judicial justice of the peace or judge may issue a warrant authorizing the inspector, together with any peace officer as is required to assist, to enter and inspect the premises or place named therein.

**Authority under warrant**

- (6) A warrant issued under subsection (5) authorizes the person or persons named in the warrant to enter the premises or place named in the warrant to
- (a) inspect the premises or place; and
  - (b) search for and seize and take possession of anything that there are reasonable grounds to believe will afford evidence of an offence against this Act or the regulations.

**Entry without a warrant**

- (7) An inspector may exercise all or any of the powers mentioned in subsection (6) without a warrant issued under this section if
- (a) the conditions for obtaining a warrant exist; and
  - (b) the inspector believes, on reasonable grounds, that the delay necessary to obtain the warrant would result in danger to human life or safety or the loss, removal or destruction of evidence.

**Inspector during inspection**

- (8) During an inspection, an inspector may do any of the following:
- (a) require to be produced for inspection, or for the purpose of obtaining copies or extracts, any record or document that the inspector considers relevant to the inspection;
  - (b) take photographs or make videos, notes or other recordings of anything at or in the premises that the inspector considers to be of assistance in the inspection;

- (c) make those examinations and inquiries of any person that the inspector considers necessary for the purpose of ensuring compliance with this Act, the regulations and the licence associated with the centre.

**Operator to comply**

- (9) Immediately on demand by an inspector, the operator or administrator of a licensed centre shall produce a record or document required by the inspector under subsection (8).

**Assistance to inspector**

- (10) Every person shall give an inspector all reasonable assistance to enable the inspector to carry out an inspection under this section, including providing the inspector with the information that the inspector reasonably requires.

**Assistance of peace officer**

- (11) An inspector acting under this section may request the assistance of a peace officer. *2010,c.8,s.43; 2015,c.24,s.23.*

**44. Inspection report**

At the completion of an inspection of a centre in accordance with section 43, an inspector shall

- (a) prepare a report detailing the inspection; and  
(b) provide the operator of the centre inspected and the Board with a copy of the inspector's report. *2010,c.8,s.44; 2018,c.52,s.55.*

**45. Removal of record or document**

- (1) For the purposes of section 43, an inspector may remove a record or document from a licensed centre and may make a copy or extract of it or any part of it and shall give a receipt for the record or document to the person who provided it to the inspector.

**Return of record or document**

- (2) When a record or a document is removed from a licensed centre under subsection (1), it shall be returned as soon as possible after the copies or extracts have been made.

**Admissibility of copies**

- (3) A copy or extract of a record or document related to an inspection and purporting to be certified by the inspector is admissible in evidence in a proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original without proof of the appointment, authority or signature of the inspector. *2010,c.8,s.45.*

**46. Confidentiality of information**

A statement, declaration, record or document made or given by a person at the request of an inspector in the course of an inspection is confidential and for the information and use of the Board only and may not be inspected by any other person without the written authorization of the Board. *2010,c.8,s.46.*

**47. Obstruction of inspectors**

- (1) No person shall obstruct or interfere with an inspector who is carrying out or attempting to carry out an inspection under section 43.

**Inspector to produce certificate**

- (2) An inspector who exercises powers under this Act or the regulations shall produce his or her certificate of designation when requested to do so. *2010, c.8, s.47.*

**47.1 Inspection by public health official**

- (1) Notwithstanding sections 43 to 47 and in accordance with section 70 of the *Public Health Act* R.S.P.E.I. 1988, Cap. P-30.1, a public health official may,

- (a) on the request of the Board, inspect a centre in respect of which an application for a licence or to renew a licence has been made; and  
(b) periodically, inspect a licensed centre,

with respect to matters of public health, including public health hazards, sanitation, potable water and food handling.

**Inspection report**

- (2) Where a public health official conducts an inspection pursuant to subsection (1), the public health official shall, on completion of the inspection,

- (a) prepare a report detailing the inspection; and  
(b) provide a copy of the report to the operator of the centre inspected and the Board.  
*2015, c.24, s.24.*

**47.2 Interim order**

- (1) Notwithstanding any other provision of this Act, where a senior inspector has reasonable grounds to believe that there is imminent danger to the health, safety or well-being of a child receiving services at a licensed centre, the senior inspector may make an order suspending the licence of the operator of the centre for a period of up to seven days, as specified in the order.

**Notice of suspension**

- (2) Where a senior inspector makes an order under subsection (1), the senior inspector shall immediately

- (a) post a notice of the suspension of the licence in a clearly visible and prominent place on the premises of the licensed centre;  
(b) serve a copy of the notice and the order, including reasons, on the operator of the licensed centre; and  
(c) provide a copy of the notice and the order, including reasons, to the Board for its review and inquiry.

**Effect of order**

- (3) An order made under subsection (1) is effective when the notice is posted at the licensed centre in accordance with clause (2)(a).

**Service**

- (4) The operator may be served under clause (2)(b) by any of the following methods:

- (a) personal service;  
(b) ordinary mail to the operator's last known address;  
(c) fax to the operator's last known fax number;  
(d) email to the operator's last known email address.

**Expiry of order**

- (5) An order made under subsection (1) expires on the earliest occurrence of one of the following:
- (a) the Board
    - (i) reinstates the suspended licence,
    - (ii) makes an order under subsection 48(1),
    - (iii) suspends the licence and issues a probationary licence under subsection 49(1),  
or
    - (iv) revokes the licence under section 50;
  - (b) the expiry date on the order is reached;
  - (c) seven days have passed since the order became effective. *2017,c.5,s.5.*

**Enforcement**

**48. Order for compliance**

- (1) If the Board is of the opinion that a licensed centre is not being operated or maintained in compliance with this Act, the regulations, the Minister's directives or the terms or conditions of its licence, the Board may issue an order to the operator requiring that those measures specified in the order be taken in order to remedy the non-compliance.

**Requirements for order**

- (2) An order under subsection (1) shall be in writing and shall specify the time within which it must be complied with. *2010,c.8,s.48.*

**49. Probationary licence**

- (1) The Board may suspend the licence of an operator of a licensed centre and issue a probationary licence to the operator in the following circumstances:
- (a) the Board is of the opinion the licensed centre is not being operated or maintained in compliance with this Act, the regulations, the Minister's directives, the terms and conditions of its licence or a provision of any other Act;
  - (b) the Board has reasonable grounds to believe that the operator knowingly made a false statement in an application under section 15 or 21 or in a document or record required to be maintained or filed under this Act or the regulations.
  - (c) the Board has reasonable grounds to believe that an associated person of the centre is not suitable to have contact with children receiving services at the centre;
  - (d) other circumstances set out by regulation.

**Licence information**

- (2) When a probationary licence has been issued in the circumstances referred to in clause (1)(a), in addition to the information required under subsection 16(4), the licence shall include the following information:
- (a) the non-compliance that resulted in the issuance of the probationary licence;
  - (b) the measures the operator must take to remedy the non-compliance;
  - (c) any restriction imposed by the Board relating to the operation of the centre, including closure or restriction of the provision of services, for a specified period of time;
  - (d) the time within which the operator must complete the specified measures to remedy the non-compliance.

**Term**

- (3) The term of a probationary licence shall be determined by the Board, but the term shall not exceed.
- (a) three months; or
  - (b) the unexpired term of the suspended licence.

**Reinstatement of licence**

- (4) At any time during the term of a probationary licence issued in the circumstances referred to in clause (1)(a), if the Board is satisfied that the operator has taken the measures indicated in that licence within the specified time, the Board may reinstate the suspended licence for the remainder of the unexpired term of that licence.

**Operator's failure to complete measure**

- (5) If an operator fails to complete the measures indicated in a probationary licence issued in the circumstances referred to in clause (1)(a) within the specified time, the Board may do either of the following:
- (a) refuse to reinstate the suspended licence;
  - (b) renew the probationary licence if the Board is satisfied that the operator's failure to complete the indicated measures within the specified time was due to circumstances beyond the operator's control.

**Renewal**

- (6) The Board may renew a probationary licence for only one period of no more than three months.

**Board powers**

- (7) At any time during the term of a probationary licence issued in the circumstances referred to in clauses (1)(b), (c) or (d), the Board may do either of the following after an investigation and reasonable inquiry:
- (a) reinstate the suspended licence for the remainder of the unexpired term of that licence; or
  - (b) refuse to reinstate the suspended licence. *2010, c.8, s.49; 2015, c.24, s.25.*

**50. Expiry**

- (1) If the Board refuses to reinstate a suspended licence under subsection 49(5) or (7), the Board shall revoke the suspended licence and the probationary licence is deemed to expire on the effective date of the revocation.

**Revocation of licence**

- (2) Notwithstanding subsection (1), the Board may revoke the licence of an operator in any of the following circumstances:
- (a) the operator transfers or assigns the operator's licence without the prior approval of the Board;
  - (b) the operator has been convicted of an offence under this Act or the regulations;
  - (c) the operator has been convicted of an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or other federal or provincial legislation for conduct of such a nature that, in the opinion of the Board, failing to revoke the operator's licence would endanger the health, safety or well-being of children receiving services at the centre operated under the licence;
  - (d) other circumstances set out by regulation.

*2010, c.8, s.50; 2015, c.24, s.26.*

**51. Revocation of licence, procedure**

- (1) The revocation of a licence of an operator by the Board under section 50 is effective as follows:
- (a) immediately on the Board posting notice of the revocation at the centre to which the licence applies if the Board is of the opinion that there is an imminent danger to the health, safety or well-being of a child;
  - (b) on the fifteenth day following the day the Board serves notice of the revocation on the operator.

**Written notice**

- (2) Immediately on making a determination to revoke a licence of an operator, the Board shall serve written notice of the revocation on the operator.

**Information for notice**

- (3) A notice of revocation shall indicate the following information:
- (a) the reason for the revocation;
  - (b) the effective date of the revocation.

**Service of notice**

- (4) A notice of revocation may be served on an operator by any of the following methods:
- (a) by personal service;
  - (b) by ordinary mail to the operator's last address known to the Minister;
  - (c) by fax to the operator's last fax number known to the Board;
  - (d) by e-mail to the operator's last e-mail address known to the Board.

**Posting of notice**

- (5) The Board shall post a notice of revocation in a clearly visible and prominent place on the premises where the centre is operated.

**Notice to parents**

- (6) The Board shall provide a copy of the notice of revocation to the parent or guardian of each child that receives services at the centre. *2010, c.8, s.51.*

**52. General duty to notify**

- (1) If the Board refuses to issue or renew a licence or acts under section 48 or 49, the Board shall provide written notice of the Board's decision to the person or the operator, as the case may be.

**Information for notice**

- (2) A notice under subsection (1) shall indicate the following information:
- (a) the decision made by the Board;
  - (b) the reasons for the decision;
  - (c) the right of the person or the operator to have the decision reviewed by the Appeal Board.

**Provision of notice**

- (3) A notice under subsection (1) shall be provided to the person or the operator by any of the following methods:

- (a) by ordinary mail to the person's or operator's last address known to the Board;
- (b) by fax to the person's or operator's last fax number known to the Board;
- (c) by e-mail to the person's or operator's last e-mail address known to the Board.

**Posting of notice**

- (4) The Board may post a notice under this section in a clearly visible and prominent place on the premises where the centre is operated. *2010, c.8, s.52.*

**53. Probationary certificate**

- (1) The Board may suspend the certificate of a certificate holder and issue a probationary certificate to the certificate holder in the following circumstances:
  - (a) the Board is of the opinion that the certificate holder is not complying with this Act, the regulations, the Minister's directives or any terms or conditions on the certification;
  - (b) the Board has reasonable grounds to believe that the certificate holder knowingly made a false statement in an application made under sections 27 or 33 or in a document or record required to be maintained or filed under this Act or the regulations;
  - (c) other circumstances set out by regulation.

**Certificate information**

- (2) When a probationary certificate has been issued in the circumstances referred to in clause (1)(a), in addition to the information required under subsection 28(4), the certificate shall indicate the following information:
  - (a) the non-compliance that resulted in the issuance of the probationary certificate;
  - (b) the measures the certificate holder must take to remedy the non-compliance;
  - (c) the time within which the certificate holder must complete the specified measures to remedy the non-compliance.

**Term**

- (3) The term of a probationary certificate shall be determined by the Board, but the term shall not exceed
  - (a) three months; or
  - (b) the unexpired term of the certification.

**Reinstatement of certificate**

- (4) At any time during the term of a probationary certificate issued in the circumstances referred to in clause (1)(a), if the Board is satisfied that the certificate holder has taken the measures indicated in that certificate within the specified time, the Board may reinstate the suspended certificate for the remainder of the unexpired term of the certification.

**Certificate holder's failure to complete measure**

- (5) If a certificate holder fails to complete the measures indicated in a probationary certificate issued in the circumstances referred to in clause (1)(a) within the specified time, the Board may do either of the following:
  - (a) refuse to reinstate the suspended certificate;
  - (b) renew the probationary certificate if the Board is satisfied that the certificate holder's failure to complete the indicated measures within the specified time was due to circumstances beyond the certificate holder's control.

**Renewal**

- (6) The Board may renew a probationary certificate for only one period of no more than three months.

**Board powers**

- (7) At any time during the term of a probationary certificate issued in the circumstances referred to in clauses (1)(b), (c), (d) or (e), the Board may do either of the following after an investigation and reasonable inquiry:
- (a) reinstate the suspended certificate for the remainder of the unexpired term of the certification;
  - (b) refuse to reinstate the suspended certificate. *2010, c.8, s.53; 2015, c.24, s.27; 2022, c.73, s.13.*

**54. Expiry**

- (1) If the Board refuses to reinstate a suspended certificate under subsection 53(5) or (7), the Board shall revoke the certificate holder's certification and the probationary certificate is deemed to expire on the effective date of the revocation.

**Revocation of certification**

- (2) Notwithstanding subsection (1), the Board may revoke a certificate holder's certification in the following circumstances:
- (a) the certificate holder transfers or assigns his or her certificate to another individual;
  - (b) the certificate holder has been convicted of an offence under this Act or the regulations;
  - (c) the Board has reasonable grounds to believe that the certificate holder is not suitable to have contact with children receiving services at a centre;
  - (d) other circumstances set out by regulation. *2010, c.8, s.54; 2015, c.24, s.28; 2022, c.73, s.14.*

**55. Revocation of certification effective**

- (1) The revocation of the certificate holder's certification by the Board under section 54 is effective as follows:
- (a) immediately on the Board providing notice of the revocation to the certificate holder if the Board is of the opinion that there is an imminent danger to the health, safety or well-being of a child;
  - (b) on the fifteenth day following the day the Board serves notice of the revocation on the certificate holder.

**Written notice**

- (2) Immediately on making a determination to revoke the certificate holder's certification, the Board shall serve written notice of the revocation on the certificate holder.

**Information for notice**

- (3) A notice of revocation shall indicate the following information:
- (a) the reason for the revocation;
  - (b) the effective date of the revocation.

**Service of notice**

- (4) A notice of revocation may be served on a certificate holder by any of the following methods:
- (a) by personal service;

- (b) by ordinary mail to the certificate holder's last address known to the Minister;
- (c) by fax to the certificate holder's last fax number known to the Board;
- (d) by e-mail to the certificate holder's last e-mail address known to the Board. *2010, c.8, s.55; 2022, c.73, s.15.*

**56. General duty to notify**

- (1) If the Board refuses to certify an individual or renew a certificate holder's certification or acts under section 53, the Board shall provide written notice of the Board's decision to the individual or the certificate holder, as the case may be.

**Information for notice**

- (2) A notice under subsection (1) shall indicate the following information:
- (a) the decision made by the Board;
  - (b) the reasons for the decision;
  - (c) the right of the individual or the certificate holder to have the decision reviewed by the Appeal Board.

**Provision of notice**

- (3) A notice under subsection (1) shall be provided to the individual or the certificate holder by any of the following methods:
- (a) by ordinary mail to the individual's or certificate holder's last address known to the Board;
  - (b) by fax to the individual's or certificate holder's last fax number known to the Board;
  - (c) by e-mail to the individual's or certificate holder's last e-mail address known to the Board. *2010, c.8, s.56; 2022, c.73, s.16.*

## Review of decisions

**57. Review of licence refusal**

- (1) A person whose application to the Board for a licence or the renewal of a licence has been refused by the Board may request that the Appeal Board established under the regulations review that decision.

**Request for review by operator**

- (2) An operator may request that the Appeal Board established under the regulations review the following decisions of the Board:
- (a) a decision to issue an order to the operator under section 48;
  - (b) a decision to issue a probationary licence to the operator under section 49;
  - (c) a decision to refuse to reinstate a suspended licence of the operator under subsection 49(5) or (7);
  - (d) a decision to revoke a licence of the operator under subsection 50(2).

**Review of certification refusal**

- (3) An individual whose application to the Board for certification or to renew certification has been refused by the Board may request that the Appeal Board established under the regulations review that decision.

**Request for review by certificate holder**

- (4) An individual may request that the Appeal Board established under the regulations review the following decisions of the Board:
- (a) a decision to issue a probationary certificate to the individual under section 53;
  - (b) a decision to refuse to reinstate a suspended certificate of the individual under subsections 53(5) or (7);
  - (c) a decision to revoke the certification of the individual under subsection 54(2).  
*2010,c.8,s.57; 2022,c.73,s.17.*

**58. Time limit for request**

A request for a review under section 57 shall be submitted to the Appeal Board in writing and shall be made within 10 days after the person is provided with notice of the Board's decision.  
*2010,c.8,s.58.*

**59. Review of decision**

- (1) On request, in accordance with section 58, the Appeal Board shall review a decision of the Board and, on completion of the review, may do any of the following:
- (a) confirm the decision;
  - (b) vary the decision;
  - (c) rescind the decision.

**Representations**

- (2) Before the Appeal Board completes the review of a decision, the person who requested the review is entitled to make oral or written representations to the Appeal Board.

**Time for review**

- (3) The Appeal Board shall complete the review of a decision within 45 days after the request for the review is received by the Appeal Board.

**Process**

- (4) Except as outlined in sections 57, 58 and this section, the process and procedures to be followed by the Appeal Board and the parties to the review shall be as provided for in the regulations.  
*2010,c.8,s.59; 2017,c.5,s.6.*

**Unlicensed Child Care**

**60. Investigation of unlicensed centre**

- (1) Subject to subsection (2), if an inspector has reasonable and probable grounds to believe that a person is operating a centre without a licence in circumstances in which a licence is required, the inspector may
- (a) at any reasonable hour enter the premises from which the centre is operating for the purpose of conducting an investigation; and
  - (b) examine any record or document relevant to the investigation.

**Circumstances for entry**

- (2) An inspector may enter premises for the purposes of subsection (1) in one of the following circumstances:

- (a) the inspector is acting in an emergency situation;
- (b) the inspector is entering with the consent of a person who appears to be an adult and in charge of the premises;
- (c) the inspector has obtained a warrant in accordance with the process set out in section 43.

**Warrant**

- (3) Before or after attempting to enter premises under subsection (1), an inspector may apply for a warrant in accordance with the process set out in section 43.

**Assistance of peace officer**

- (4) An inspector acting under this section may request the assistance of a peace officer.

**Application**

- (5) Subsections 43(8) to (10) and sections 44, 45 and 46 apply with the necessary modifications to an investigation under this section. *2010, c.8, s.60.*

**61. Obstruction**

- (1) No person shall obstruct or interfere with an inspector who is carrying out or attempting to carry out an investigation under section 60.

**Limitation**

- (2) A person is not interfering with or obstructing an inspector if the person refuses to consent to the inspector entering the premises, unless a warrant has been obtained or the inspector is acting in an emergency situation. *2010, c.8, s.61.*

**62. Order to cease operations**

- (1) After an investigation has been conducted under section 60, if the Board is satisfied that a person is operating a centre without a licence in circumstances in which a licence is required, the Board may order the person in writing to cease operating the centre.

**Notice of order**

- (2) Where the Board makes an order under subsection (1), the Board shall
  - (a) serve the order by personal service on the person to whom it is directed;
  - (b) post the order in a clearly visible and prominent place on the premises where the centre is operated; and
  - (c) provide notice of the order by ordinary mail, by fax or electronically to the parent or guardian of each child who receives services at the centre.

**Idem**

- (2.1) If it is not practicable to provide notice to each parent or guardian under clause (2)(c), the Board may provide notice of the order by any means of communication that the Board considers will make it known to the majority of the parents or guardians.

**Application to court**

- (3) If the person to whom an order is directed under subsection (1) fails to comply with the order, the Board may apply to the Supreme Court for an order directing that person to cease operating the centre.

**Rules of court apply**

- (4) The rules of court apply to an application under subsection (3).

**Court order**

- (5) On application under subsection (3), if the court is satisfied that a person is operating a centre without a licence in circumstances in which a licence is required, the court may make an order directing the person to cease operating the centre. *2010, c.8, s.62; 2015, c.24, s.29.*

**63. Interim permit**

- (1) to (6) Repealed by *2015, c.24, s.30. 2010, c.8, s.63; 2015, c.24, s.30.*

**PART 4 — EARLY YEARS DESIGNATION****64. Early Years Designation**

Not Proc. *2010, c.8, s.64; 2015, c.24, s.31.*

**65. Issuance of designation**

Not Proc. *2010, c.8, s.65; 2015, c.24, s.32.*

**66. Prohibition**

Not Proc. *2010, c.8, s.66.*

**67. No transfer or assignment**

Not Proc. *2010, c.8, s.67.PART 5*

**PART 5 — GENERAL****68. Confidentiality of information**

- (1) Notwithstanding the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01, all information acquired by the Minister or another person in relation to any person or matter under this Act, whether of a documentary nature or otherwise, is confidential to the extent that its release would tend to reveal personal information about a person identifiable from the release of the information.

**Consent for release of information**

- (2) The Minister shall not permit the release of confidential information to any person without the consent of the person from whom the information was obtained and the person to whom the information relates.

**Release with consent**

- (3) Notwithstanding subsection (2), the Minister may permit the release of confidential information without the consent of the person from whom the information was obtained or the person to whom the information relates
- (a) to another Minister of the Crown or his or her servant;

- (b) to protect the health, safety and security of a person; or
- (c) if the release is otherwise provided for under this Act.

**Idem**

- (4) A person to whom information is released under clause (3)(b), other than a person referred to in clause (3)(a), shall not release, or permit or cause to be released, confidential information without the consent of the person from whom the information was obtained and the person to whom the information relates.

**Restrictions on operators**

- (5) Except as otherwise provided in this Act, neither an operator nor a staff member of a centre shall release, or permit or cause to be released, confidential information without the consent of the person from whom the information was obtained and the person to whom the information relates. *2010, c.8, s.68.*

**69. Exemptions**

- (1) On written request by an operator in accordance with the regulations, the Board may exempt the operator in writing from a requirement of this Act or the regulations for such time as the Board considers appropriate if
  - (a) the Board is of the opinion that there is an exceptional and extraordinary circumstance that warrants an exemption and that the exemption is in the public interest; or
  - (b) the exemption is permitted by the regulations.

**Assessment by Board**

- (2) In determining whether to grant an exemption under clause (1)(b), the Board shall assess the operator's request for an exemption against the criteria set out by the regulations. *2010, c.8, s.69.*

**70. Delegation**

- (1) The Minister may designate persons to exercise any power, authority or right or carry out any duty or responsibility under this Act.

**Examples of delegation**

- (2) Without limiting subsection (1), the Minister may delegate a power, authority, right, duty or responsibility conferred or imposed on the Minister under this Act or the regulations to a person or organization that is set out by the regulations.

**Requirements for delegation**

- (3) A delegation under subsection (2) shall be in writing and shall set out the following information:
  - (a) the manner in which the delegate shall exercise the delegated power, authority or right or carry out the delegated duty or responsibility;
  - (b) any limitations, terms or conditions on the manner in which the delegate may exercise the delegated power, authority, right or carry out the delegated duty or responsibility. *2010, c.8, s.70.*

**71. Document as evidence**

- (1) The Board may issue a signed document that contains information respecting any of the following matters:

- (a) that a person did or did not hold a licence or a probationary licence;
- (b) that an individual did or did not hold a certificate or a probationary certificate;
- (c) that a person refused to permit an inspector to conduct an inspection or investigation under this Act or obstructed or interfered with an inspection or investigation;
- (d) that an order was issued under this Act and the order was not complied with;
- (e) the filing or maintaining, or non-filing or non-maintenance, of a document or a record required to be filed or maintained under this Act or the regulations;
- (f) any matter pertaining to anything set out in clauses (a) to (e);
- (g) the date the facts on which a proceeding is to be based first came to the knowledge of the Board.

**Admissibility of document**

- (2) Without proof of the appointment, authority or signature of the Board, a document issued by the Board in accordance with subsection (1) is admissible in evidence in a prosecution or other proceeding under this Act as proof, in the absence of evidence to the contrary, of the facts stated in the certificate.

**Name of accused**

- (3) When the name of the person referred to in a document issued by the Board in accordance with subsection (1) is that of an accused, the statement, in the absence of evidence to the contrary, is proof that the person named in the document is the accused. *2010, c.8, s.71; 2015, c.24, s.33.*

**72. Liability protection**

No action for damages or other legal proceeding lies or shall be instituted against the Minister, an inspector, the Registrar, the Board or any member of the Board, a peace officer or other persons acting under the authority of this Act or the regulations for anything done or omitted to be done in good faith in the exercise or the intended exercise of a function under this Act or the regulations. *2010, c.8, s.72.*

**73. Offences and penalties**

- (1) A person who
  - (a) knowingly furnishes false information in an application under this Act or in a record or a document required to be filed or maintained under this Act or the regulations;
  - (b) violates or fails to comply with an order made to the person under this Act or the regulations;
  - (c) violates or fails to comply with a term or condition of a licence or a probationary licence issued to the person;
  - (d) violates or fails to comply with a term or condition of a certificate issued to the person;  
or
  - (e) violates or fails to comply with a provision of the regulations that is prescribed as an offence by regulation,

is guilty of an offence and liable on summary conviction to a fine of not less than \$50 and not more than \$1,000.

**Particular offence**

- (2) A person who violates or fails to comply with section 13, subsection 14(1), section 14.1, 14.2, 26, 26.1 or 37 or subsection 47(1), 61(1) or 68(4) or (5) is guilty of an offence and liable on summary conviction to a fine of not less than \$100 and not more than \$2,000.

**Continuing offence**

- (3) When an offence under this Act continues for more than one day,
- (a) the minimum fine that may be imposed is the minimum fine set by this Act for the offence multiplied by the number of days during which the offence continues; and
  - (b) the maximum fine that may be imposed is the maximum fine set by this Act for the offence multiplied by the number of days during which the offence continues.
- 2010, c.8, s.73; 2015, c.24, s.34.*

**74. Tickets**

For greater certainty, an inspector may issue tickets under the *Summary Proceedings Act* R.S.P.E.I. 1988, Cap. S-9 in respect of a contravention of this Act or the regulations.

*2010, c.8, s.74.*

**75. Order of court on conviction**

- (1) When an operator is convicted of an offence under this Act, on the request of the Board and in addition to any other penalty, the court may make an order directing the operator to do any of the following:
- (a) allow an inspection or investigation;
  - (b) close a centre; or
  - (c) operate a centre in accordance with an order of the Board.

**Terms and conditions**

- (2) The court may make an order under this section subject to the terms and conditions set out in the order. *2010, c.8, s.75.*

**76. Regulations**

The Lieutenant Governor in Council may make regulations

- (a) prescribing associated persons for the purposes of the definition “associated person” in section 1;
- (a.1) setting out circumstances that constitute reasonable grounds to believe a person is not suitable to have contact with children receiving services at a centre;
- (b) respecting services to which this Act does not apply;
- (c) respecting the Minister’s directives;
- (d) repealed by *2015, c.24, s.35*;
- (e) establishing different levels of certification;
- (f) identifying groups or persons who do not require a certificate for the purposes of this Act;
- (g) establishing or adopting requirements with respect to the establishment and operation of licensed centres, including requirements with respect to the following matters:
  - (i) administrative procedures and processes, including record keeping and the confidentiality of information,

- (ii) insurance requirements,
  - (iii) site requirements,
  - (iv) play area requirements, including size, location, equipment and furnishings,
  - (v) parental involvement,
  - (vi) health, fire and safety requirements, including emergency and evacuation procedures,
  - (vii) programming,
  - (viii) staffing and child-to-staff ratios,
  - (ix) certification levels, including a necessary combination of levels, for staff members employed at a centre,
  - (x) nutrition and active living,
  - (xi) child guidance and behaviour management;
- (h) imposing different requirements on centres based on the category of licence of the centres;
  - (i) providing for the operator of a licensed centre to apply to change the category of licence of the centre or the services provided at the centre and requiring the operator to pay a fee to make such an application;
  - (i.1) prescribing the requirements to be met to change the category of licence of a centre or the services to be provided at the centre and the reasons that the Board may refuse to do so;
  - (j) prescribing the documents that shall accompany any application made under this Act or the regulations;
  - (j.1) prescribing requirements for certification or to renew certification;
  - (j.2) prescribing circumstances in which the Board may refuse to issue a licence, renew a licence, certify an individual or renew a certificate holder's certification;
  - (j.3) prescribing circumstances in which the Board may suspend or revoke a licence, suspend a certificate or revoke certification;
  - (k) respecting terms or conditions that may be placed by the Board on a licence or a probationary licence;
  - (l) providing for the operator of a licensed centre and a transferee or assignee to apply for approval of the transfer or assignment of the licence to operate the centre and requiring the applicants to pay a fee to make such an application;
  - (l.1) prescribing the requirements to be met for approval of the transfer or assignment of a licence to operate a centre and reasons that the Board may refuse to do so;
  - (m) repealed by 2015, c.24, s.35;
  - (n) prescribing requirements with respect to the transportation of children by or on the behalf of the operators of licensed centres, including requirements with respect to vehicle equipment and maintenance, driver training and qualifications and motor vehicle insurance;
  - (o) repealed by 2015, c.24, s.35;
  - (p) prescribing, for the purpose of section 25, the period of time that a person is not eligible to apply for a licence;
  - (q) respecting terms and conditions that the Board may impose on certification;
  - (q.1) imposing terms or conditions on a particular level or particular levels of certification;
  - (q.2) providing that a particular level of certification is not renewable or prescribing circumstances in which it is not renewable;

- (r) prescribing requirements to be met by an operator who uses a curriculum framework provided by the Minister to provide services;
- (s) prescribing the requirements for a program approved by the Board under section 39;
- (t) respecting the names and advertising that may be used in connection with a centre;
- (u) respecting additional training requirements that may be imposed on the operator, administrator and other staff members of a centre;
- (v) respecting qualifications and training requirements of operators, administrators and other staff;
- (w) establishing or adopting requirements for the operation of licensed centres with respect to food preparation and service, nutrition, the immunization of children, lighting, ventilation and other general health standards;
- (x) prescribing the maximum number of children to whom services may be provided at a centre based on prescribed criteria, including the category of the centre, the size of the premises and the ages of the children;
- (y) respecting the duties and responsibilities of operators, administrators and other staff members;
- (z) respecting the corporate structure of centres;
- (aa) prescribing the records and documents that shall be maintained by a centre, including financial records and accounts, and the manner and form in which they are to be prepared and maintained;
- (bb) giving additional powers or duties to inspectors;
- (cc) repealed by 2015, c.24, s.35;
- (dd) repealed by 2015, c.24, s.35;
- (ee) respecting appeals under section 57, including
  - (i) providing for the establishment, composition and administration of the Appeal Board,
  - (ii) providing for the remuneration and compensation of the members of the Appeal Board,
  - (iii) respecting procedures to be followed by, the conduct of hearings by and the rendering of decisions by Appeal Board,
  - (iv) respecting the grounds for appealing a decision,
  - (v) respecting the form, manner and procedures with respect to an appeal, and
  - (vi) prescribing fees with respect to an appeal;
- (ff) respecting applications for Early Years designations;
- (gg) respecting, for the purposes of the Act, the requirements and standards to be met by an operator before an Early Years designation may be issued by the Minister;
- (hh) respecting periodic program assessment audits to ensure that centres that have, for the purposes of the Minister, met the requirements for an Early Years designation, continue to meet those requirements;
- (ii) respecting the period of time for which an Early Years designation is valid;
- (jj) respecting the Minister's refusal, suspension or revocation of an Early Years designation and, without limiting the generality of the foregoing, the circumstances under which a refusal, suspension or revocation may be made;
- (kk) respecting the reinstatement of an Early Years designation that has been suspended including, without limiting the generality of the foregoing, the terms and conditions upon which a reinstatement may be made;

- (ll) respecting the number of Early Years designations that may be issued by the Minister;
- (mm) respecting a transition process for operators who, prior to the coming into force of this Act, had Early Years agreements with the Minister, and want to apply and be issued Early Years designations for their centres under this Act;
- (nn) respecting circumstances in which the Board may grant an exemption under paragraph 69(1)(b);
- (oo) prescribing criteria to be met in order for the Board to grant an exemption under paragraph 69(1)(b);
- (pp) prescribing persons or organizations to whom the Minister may delegate a power, authority, right, duty or responsibility, including persons or organizations that are external to government;
- (qq) prescribing provisions of the regulations that the violation of which or the failure to comply with constitute an offence;
- (rr) with respect to offences under the regulations, prescribing the penalties for such offences;
- (ss) prescribing fees for the purposes of this Act and the regulations;
- (tt) repealed by *2015, c.24, s.35*;
- (uu) defining any word or expression used in but not defined in this Act for the purposes of this Act, the regulations or both;
- (vv) prescribing anything required to be prescribed by this Act;
- (ww) respecting any other matter that may be necessary for the proper administration of this Act;
- (xx) respecting any other matter that the Lieutenant Governor in Council considers appropriate for the purpose of more effectively bringing this Act into operation, and to remedy any transitional difficulties encountered in doing so. *2010, c.8, s.76; 2015, c.24, s.35; 2022, c.73, s.18.*

#### **76.1 Incorporation by reference**

- (1) A regulation referred to in section 76 may incorporate by reference, in whole or in part, any code, standard or guideline relating to requirements for the operation of a licensed centre or the premises where the licensed centre operates, and may incorporate it as amended from time to time and with any necessary changes.

#### **Recognized authority**

- (2) A document incorporated by reference under subsection (1) shall be a document created by a recognized authority and shall not be a document created by the Board.

#### **Board shall make available**

- (3) The Board shall make every code, standard or guideline adopted under subsection (1) readily available to operators, certificate holders and the public.

## PART 6 — MISCELLANEOUS

### Transitional Provisions

#### 77. Transitional

- (1) On the coming into force of this section, a licence issued under section 12 of the former Act for a child care facility that is in force immediately before the coming into force of this section shall be deemed to be a licence issued under this Act with a category as set out in the regulations and shall continue in force until
- (a) the term of the licence expires;
  - (b) the Board suspends the licence under section 49; or
  - (c) the Board revokes the licence under section 50.

#### Supervisor's certificate

- (2) On the coming into force of this section, a supervisor's certificate issued to a person under section 35 of the regulations to the former Act that is in force immediately before the coming into force of this section shall be deemed to be a certificate with a level as set out in the regulations issued under this Act and shall continue in force until
- (a) the term of the certificate expires;
  - (b) the Board suspends the certificate under section 53; or
  - (c) the Board revokes the certificate under section 54.

#### Staff certificate

- (3) On the coming into force of this section, a staff certificate issued to a person under section 35 of the regulations to the former Act that is in force immediately before the coming into force of this section shall be deemed to be a certificate with a level set out in the regulations issued under this Act and shall continue in force until
- (a) the term of the certificate expires;
  - (b) the Board suspends the certificate under section 53; or
  - (c) the Board revokes the certificate under section 54.

#### Continuation of proceedings

- (4) On the coming into force of this section, any proceeding, hearing, matter or thing, commenced under the former Act by the Child Care Facilities Board that would be dealt with by the Board if commenced on or after the coming into force of this section, may be dealt with and completed in accordance with this Act by the Board.

#### Records

- (5) On the coming into force of this section, the records and files of the Child Care Facilities Board established under the former Act are deemed to be the records and files of the Board.  
*2010, c.8, s.77; 2015, c.24, s.37.*

## CONSEQUENTIAL AMENDMENTS

#### 78. Consequential Amendments

Sections 78 and 79 make consequential amendments to other Acts. The amendments have been incorporated into those Acts.

## REPEAL AND COMMENCEMENT

**80. Repeal**

The *Child Care Facilities Act* R.S.P.E.I. 1988, Cap. C-5 is repealed.