

BILL

No. 145

An Act respecting Facilities that Provide Certain Residential Services and to make Consequential Amendments to Other Acts

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RESIDENTIAL SERVICES

PART 1
Title and Interpretation

Short title

1 This Act may be cited as *The Residential Services Act, 2018*.

Definitions and interpretation

2(1) In this Act:

“**administrator**” means an administrator appointed pursuant to section 20;

“**care facility**” means a prescribed category of home or facility that provides support services;

“**licence**” means a licence issued pursuant to section 4;

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“**ministry**” means the ministry over which the minister presides;

“**operator**” means, except as otherwise provided, a person who has been issued a licence and operates a care facility under that licence;

“**prescribed**” means prescribed in the regulations;

“**resident**” means a person who resides in a care facility;

“**support services**” means:

- (a) accommodation;
- (b) supervision;
- (c) assistance with personal care;
- (d) special programming to assist residents who are in need of those services; and
- (e) any other prescribed programming, service or support.

(2) A care facility does not include the following:

- (a) a facility as defined in *The Child Care Act, 2014*;
- (b) a mental health approved home as defined in *The Mental Health Services Act*;
- (c) facilities designated as special-care homes pursuant to *The Facility Designation Regulations*;
- (d) a personal care home as defined in *The Personal Care Homes Act*;
- (e) other homes or facilities under the jurisdiction of any other ministry or agency of the Government of Saskatchewan;
- (f) any other prescribed home or facility.

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PART 2
Licensing**Licence required**

- 3(1) A person may apply to the minister for a licence to operate a care facility.
- (2) No person, other than a person who holds a valid licence, shall:
- (a) conduct or operate a care facility; or
 - (b) purport to conduct or operate a care facility.
- (3) Every application for a licence shall:
- (a) be made in any form approved by the ministry;
 - (b) include any prescribed fee; and
 - (c) meet any other prescribed requirements.

Issuance of licence

- 4(1) On receipt of an application to operate a care facility in accordance with section 3, the minister may issue a licence if the minister is satisfied that:
- (a) there is a need for the operation of a care facility of the kind mentioned in the application;
 - (b) the care facility will be of benefit to persons who may be resident in that facility;
 - (c) the operation of that care facility is in the public interest; and
 - (d) the person who made the application and the care facility that is the subject of the application meet any other prescribed requirements.
- (2) Subject to the regulations, the minister may issue a licence on any terms and conditions that the minister considers appropriate.
- (3) A licence may be issued for a period not exceeding 3 years.

Conditional licence

- 5(1) Subject to subsection (2) and the regulations, if a care facility does not comply with any provision of this Act or the regulations, or any term or condition imposed by the minister, the minister may issue a conditional licence to the care facility, for a period not exceeding 6 months, to allow that care facility to comply with that provision.
- (2) No conditional licence is to be issued pursuant to subsection (1) if the immediate health and safety of the residents of the care facility are at risk because of the non-compliance with this Act or the regulations, or any term or condition imposed by the minister.

Licence not transferable

- 6 A licence is not transferable.

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Amendment, suspension or cancellation

7 Subject to the regulations, the minister may amend, suspend or cancel a licence if:

- (a) the operator or any employee or agent of the operator contravenes any:
 - (i) provision of this Act or the regulations; or
 - (ii) term or condition imposed by the minister; or
- (b) in the opinion of the minister, the premises with respect to which the licence is issued have become unsuitable for use as a care facility.

Review respecting decisions

8(1) Subject to the regulations, any applicant or operator may request that the minister review a decision if that person is aggrieved by a decision of the minister to:

- (a) refuse to issue a licence;
 - (b) impose terms or conditions on a licence;
 - (c) amend, suspend or cancel a licence; or
 - (d) exempt a person from the requirement to obtain a licence.
- (2) A request for review pursuant to subsection (1) does not stay or otherwise affect the validity of the decision with respect to which the review is requested.
- (3) On completing a review, the minister may confirm, reverse or vary the decision with respect to which the review was requested.

PART 3
Enforcement

Officers

9 The minister may appoint any persons or category of persons as officers for the purpose of ensuring compliance with, or enforcing or overseeing the enforcement of, this Act and the regulations.

Inspection

10(1) Subject to subsection (3), the minister, or a person appointed by the minister for the purpose, may enter any care facility with respect to which a licence is issued and conduct an inspection or inquiry for the purpose of:

- (a) ensuring the safety and well-being of residents; or
 - (b) administering this Act and the regulations.
- (2) Every operator shall, at all reasonable times:
- (a) cause the care facility to be open for inspection by the minister or person appointed by the minister; and
 - (b) cause all records relating to the operation of the care facility to be available for inspection, or for the purpose of obtaining copies or extracts, by the minister or person appointed by the minister.

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(3) The minister or person appointed by the minister shall not enter a private dwelling without a warrant issued pursuant to this Part unless the occupant of the dwelling consents to the entry.

(4) No person shall obstruct or prevent any person who is authorized to make an entry pursuant to this section from entering any premises and carrying out an inspection pursuant to this section.

Warrant

11(1) If, on an application without notice by the minister or a person appointed by the minister, a justice or a provincial court judge is satisfied by information under oath or affirmation that there are reasonable grounds to believe that an offence against this Act or the regulations has occurred and that evidence of that offence is likely to be found, the justice or the provincial court judge may issue a warrant to do all or any of the following:

- (a) enter and search any place or premises named in the warrant;
- (b) stop and search any vehicle named in the warrant;
- (c) search and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act or the regulations;
- (d) carry out any other activities mentioned in subsection (2).

(2) With a warrant issued pursuant to subsection (1), the person named in the warrant may:

- (a) enter at any time and search any place or premises named in the warrant;
- (b) stop and search any vehicle named in the warrant;
- (c) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the person finds in the place, premises or vehicle;
- (d) require the production of and examine any records or property that the person believes, on reasonable grounds, may contain information related to an offence against this Act or the regulations;
- (e) for the purpose of making copies, remove any records examined pursuant to this section; and
- (f) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act or the regulations.

(3) Subject to subsection (4), the minister or person appointed by the minister may exercise all or any of the powers mentioned in subsection (2) without a warrant if:

- (a) the conditions for obtaining a warrant exist; and
- (b) the minister or person appointed by the minister has reasonable grounds to believe that the delay necessary to obtain a warrant would result:
 - (i) in danger to human life or safety; or
 - (ii) in the loss, removal or destruction of evidence.

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(4) The minister or person appointed by the minister shall not enter a private dwelling without a warrant issued pursuant to this section unless the occupant of the dwelling consents to the entry.

Warrant to provide access to an individual

12(1) A justice or a provincial court judge may issue a warrant pursuant to this section if, on an application without notice by the minister or a person appointed by the minister, the justice or provincial court judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe:

- (a) the minister or other person who provided the information on oath or affirmation has been refused access to a resident;
- (b) there may be a threat to the resident's health or safety; and
- (c) the resident will be found at the place to be searched.

(2) With a warrant issued pursuant to subsection (1), the person named in the warrant may:

- (a) enter, search and examine the place named in the warrant and any connected premises;
- (b) assist or examine the resident;
- (c) remove the resident from the premises; and
- (d) seize and remove anything that may provide evidence of any threat to the resident's health or safety.

Information requested by the minister

13(1) The minister may:

- (a) request from an operator any information that the minister may require for the purposes of this Act and the regulations; and
- (b) specify the manner in which and time within which that information is to be provided.

(2) No operator shall fail to provide to the minister, in the manner and within the time specified by the minister, any information that the minister requests pursuant to subsection (1).

Copies of records

14(1) If any records are removed or provided pursuant to this Part, the minister or person appointed by the minister may make copies of those records.

(2) The minister or person appointed by the minister shall:

- (a) make those copies with reasonable dispatch; and
- (b) promptly return the originals of the records to:
 - (i) the place from which they were removed or provided; or
 - (ii) any other place that may be agreed to by the minister or person appointed by the minister and the person who provided the records or from whom they were seized.

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PART 4
Protection of Residents**Definition for Part**

15 In this Part, “**abuse**”, in relation to a resident, includes:

- (a) physical abuse;
- (b) sexual abuse;
- (c) emotional or psychological abuse;
- (d) verbal abuse;
- (e) financial abuse;
- (f) neglect; and
- (g) any other prescribed form of abuse.

Report of abuse

16(1) Subject to the regulations, an operator or any employee or agent of an operator who has reasonable grounds to believe that there is or has been abuse involving a resident within a care facility shall report that abuse as soon as is reasonably possible to:

- (a) the minister or a person designated by the minister; or
- (b) a person appointed by the minister.

(2) Subsection (1) applies notwithstanding that the information on which the belief is founded is confidential and its disclosure is prohibited pursuant to any other Act.

(3) This section does not apply to information that is protected by solicitor-client privilege.

Protection for persons who report

17(1) No action or other proceeding lies or shall be commenced against a person for reporting abuse pursuant to this Part if the report is made in good faith.

(2) No action shall be taken by an operator against an employee or agent of the operator who reports abuse pursuant to this Part if the report is made in good faith.

PART 5
Taxation**Exemption from taxation**

18 If a prescribed category of care facility is operated in accordance with this Act and is operated by a municipality, church or charitable organization or a non-profit corporation, the real property and buildings with respect to that care facility are exempt from taxation, except local improvement taxes and special charges.

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PART 6

Appointment of Administrator**Interpretation of Part**

19 In this Part, “**operator**” does not include an operator that operates a care facility in the operator’s private dwelling.

Appointment of administrator

20(1) The minister may appoint an administrator to act in the place of an operator if the minister has reason to believe:

- (a) the operator has ceased to function or is otherwise unable to carry out the operator’s duties and responsibilities relating to the operation of the care facility or the care of the residents;
- (b) the operator has failed to comply with the requirements of this Act, the regulations, or the terms and conditions of the operator’s licence and that failure is of a sufficiently serious nature to warrant the suspension or cancellation of the operator’s licence;
- (c) the operator has committed an offence pursuant to the *Criminal Code* against a resident or involving fraud or theft or conspiracy to commit an offence involving fraud or theft, and the offence is of a sufficiently serious nature to warrant the suspension or cancellation of the operator’s licence; or
- (d) there is any other risk to the health or safety of a resident.

(2) Subject to this section, sections 21 to 27 and the regulations, the minister may set the terms and conditions governing the powers and duties of an administrator.

(3) The minister shall set the term of appointment of an administrator and may extend the term of an appointment if, in the opinion of the minister, there are circumstances that make the extension necessary.

(4) The minister may determine the remuneration and reimbursement of expenses payable to an administrator.

(5) The minister may, at any time, terminate the appointment of an administrator and:

- (a) appoint another administrator; or
- (b) either:
 - (i) return control of the assets and the operation of the care facility to the operator; or
 - (ii) if the operator is not the owner of the assets, return control of the assets to the owner.

Duties of administrator

21(1) An administrator shall carry out all of the obligations of the operator relating to the operation of the care facility and care of its residents.

(2) Subject to any exemptions granted pursuant to section 25, an administrator shall operate the care facility in accordance with this Act, the regulations and any terms and conditions imposed by the minister.

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Powers of administrator

22(1) On the appointment of an administrator:

- (a) the administrator:
 - (i) has all the powers and duties of the operator with respect to the care facility; and
 - (ii) has control of all possessions, assets and property of the operator that are necessary for, or are used in, the operation of the care facility; and
- (b) if the operator is a corporation, the administrator has all the powers and duties of the directors and officers of the corporation with respect to the care facility.

(2) An administrator may delegate any of the powers vested in the administrator.

(3) While the powers and duties of an operator or the directors or officers of an operator are vested in an administrator, the operator and the directors or officers, as the case may be, shall not exercise those powers or carry out those duties, unless those powers are delegated by the administrator to the operator or the directors or officers.

Duties of operator

23(1) On the appointment of an administrator, the operator, any persons who act on the instructions of the operator and any persons who have been given notice of the appointment of the administrator shall immediately:

- (a) grant access to the care facility and to all possessions, assets and property that are necessary for the operation of the care facility and the care of its residents; and
- (b) deliver to the administrator:
 - (i) all real and personal property that is:
 - (A) owned or leased by the operator or any partnership, firm or subsidiary corporation that is owned or controlled, directly or indirectly, by the operator; and
 - (B) used in connection with the care facility;
 - (ii) all books, records, documents and information of every kind relating to the care facility; and
 - (iii) all moneys, cheques, post-dated cheques, credit vouchers and remittances of every kind received at any time in relation to the care facility.

(2) If any record or information relating to the care facility is stored or otherwise contained in a computer or other electronic system of information storage, the operator or any other person having control of the computer system shall:

- (a) give the administrator unfettered access to the computer or system for the purpose of obtaining a full copy of the information in any form that the administrator requires; and

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(b) provide the administrator with any assistance that the administrator requires in gaining access to the information, including instruction in the use of the computer or system and provision of any access codes that may be required.

Debts or obligations of operator

24(1) Notwithstanding any other Act or law, an administrator is not liable for any debts or obligations incurred by the operator.

(2) Without limiting the generality of subsection (1), section 2-9 of *The Saskatchewan Employment Act* does not apply to an administrator, and the vesting in an administrator of the powers of an operator and the transfer of the operation of a care facility to an administrator does not constitute a sale, lease, transfer or other disposition of the business of an operator for the purposes of that section.

Exemption from certain statutory requirements

25 Subject to the regulations, the minister may exempt an administrator from any provisions of *The Business Corporations Act*, *The Non-profit Corporations Act, 1995* or *The Co-operatives Act, 1996* that require a corporation or any director or other officer of the corporation to do any act or thing.

Exemption from seizure, etc.

26 While the powers and duties of an operator or the directors and officers of an operator are vested in an administrator, all possessions, assets and property of the operator that are necessary for, or are used in, the operation of the care facility are exempt from execution, seizure and attachment.

Approval of accounts

27(1) In this section, “**court**” means Court of Queen’s Bench.

(2) If an administrator is winding up the operation of a care facility, the administrator shall apply to the court for approval of the final accounts after paying or making adequate provision for all claims with respect to the operation of the care facility.

(3) If an administrator is returning the operation of a care facility to the operator or transferring the operation of the care facility to a new operator, the administrator shall apply to the court for approval of the final accounts after paying or making adequate provision for all claims with respect to the operation of the care facility during the period of the administrator’s appointment.

(4) If the court approves the final accounts rendered by an administrator pursuant to subsection (2) or (3), the court shall:

- (a) issue directions with respect to the custody or disposal of the documents and records respecting the care facility and its residents; and
- (b) discharge the administrator.

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PART 7
Offences and Penalties

Offence

28 Every person who contravenes any provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$300 for each day or part of a day during which the offence continues.

Injunction

29 In addition to any other remedy or penalty imposed by this Act and the regulations, if the minister believes, on reasonable grounds, that a person is acting or is about to act in contravention of section 3, the minister may apply to the Court of Queen's Bench without notice for an interim or permanent injunction restraining that person from acting in contravention of section 3, or any other relief that the court considers appropriate.

PART 8
General

Exemption

30 The minister may, if the minister considers it to be in the public interest, exempt any care facility, in whole or in part, from the operation of any provision of this Act or the regulations.

Powers of minister

31(1) The minister may:

- (a) subject to subsection (2) and the regulations, make grants to any person, agency, organization, association, institution or body within or outside Saskatchewan for the purpose of assisting in the purchase, construction or maintenance of any care facility;
 - (b) enter into agreements with any person, agency, organization, association, institution or body within or outside Saskatchewan for the provision of any services or facilities with respect to persons who by reason of need, age, disability or otherwise are unable to care for themselves fully or who require safe shelter and counselling services, including agreements by which the minister is obligated to make payments.
- (2) The minister shall obtain the approval of the Lieutenant Governor in Council before making any grant pursuant to clause (1)(a) that is in excess of \$50,000.
- (3) The minister may:
- (a) plan, develop, supervise or operate any care facility;
 - (b) require any care facility to enter into an agreement with the minister respecting, subject to the regulations:
 - (i) the services and programs to be provided by the facility;
 - (ii) the maximum number of residents of the facility;
 - (iii) the use of grant money or fees paid by or on behalf of residents who receive financial assistance from the ministry;

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- (iv) the manner in which the facility will be accountable for the terms of the agreement;
- (v) any other prescribed matters.

Immunity

32 No action or proceeding lies or shall be commenced against the minister, the ministry, a peace officer, an administrator, or any officer or employee of the ministry or administrator or agent of the minister, if that person is acting pursuant to the authority of this Act, the regulations or an order made pursuant to this Act, for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

Regulations

33(1) The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing categories of care facilities;
- (c) respecting operating requirements and restrictions for care facilities;
- (d) prescribing standards with respect to:
 - (i) buildings to be used as care facilities;
 - (ii) the rights and safety of residents; and
 - (iii) the general care of residents;
- (e) prescribing support services and programming available to residents by care facilities;
- (f) respecting the construction and maintenance of care facilities;
- (g) exempting any home or facility, or category of home or facility, from the definition of "care facility";
- (h) prescribing the conditions that every person seeking admission to a care facility is to comply with;
- (i) prescribing:
 - (i) the books and records to be kept by operators;
 - (ii) the reports to be submitted by operators; and
 - (iii) any other reporting requirements for operators;
- (j) for the purposes of section 3, prescribing any application processes, procedures or requirements;
- (k) prescribing application fees and any other fees payable by care facilities;

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- (l) for the purposes of subsection 4(1), prescribing any rules, standards, inspection requirements or other requirements for the issuance of a licence;
 - (m) for the purposes of subsection 4(2), respecting the terms and conditions the minister may impose on a licence;
 - (n) for the purposes of section 5, respecting the issuance of conditional licences;
 - (o) for the purposes of section 7, respecting the amendment, suspension or cancellation of a licence;
 - (p) for the purposes of section 8, governing any review processes and procedures, including establishing new or alternative review processes or procedures;
 - (q) respecting inspections, investigations and the issuance of warrants pursuant to Part 3;
 - (r) for the purposes of section 15, prescribing any other form of abuse;
 - (s) prescribing any matter for the purposes of Part 4;
 - (t) prescribing categories of care facilities for the purposes of section 18;
 - (u) respecting any matter for the purposes of Part 6;
 - (v) for the purposes of section 31:
 - (i) governing the conditions under which grants may be made, the amount of those grants and the rules and requirements for making an application for those grants;
 - (ii) governing agreements that are entered into by the minister pursuant to clause (1)(b);
 - (iii) governing agreements between the minister and care facilities pursuant to subsection (3);
 - (w) with respect to any matter governed by this Act:
 - (i) adopting, as amended from time to time or otherwise, all or any part of any relevant code, standard or guideline;
 - (ii) amending for the purposes of this Act or the regulations any code, standard or guideline adopted pursuant to subclause (i);
 - (iii) requiring compliance with a code, standard or guideline adopted pursuant to subclause (i);
 - (x) prescribing any matter or thing required or authorized by this Act to be prescribed;
 - (y) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) A regulation made pursuant to this section may prescribe different rules and requirements for different categories of care facilities.

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PART 9

Repeal and Transitional

SS 1984-85-86, c R-21.2 repealed

34 *The Residential Services Act* is repealed.

Transitional

35 A licence, certificate of approval, conditional licence or conditional certificate of approval issued pursuant to *The Residential Services Act*, as that Act existed on the day before the coming into force of this Act, and that was in force on the day before this Act comes into force continues and may be dealt with pursuant to this Act as if it were a licence issued pursuant to this Act.

PART 10

Consequential Amendments

SS 1999, c C-4.01 amended

36(1) *The Cemeteries Act, 1999* is amended in the manner set forth in this section.

(2) **Clause 59(1)(c) is amended by striking out** “residential-service facility as defined in *The Residential Services Act*” **and substituting** “care facility as defined in *The Residential Services Act, 2018*”.

(3) **Subsection 59(4) is amended by striking out** “residential-service facility as defined in *The Residential Services Act*” **and substituting** “care facility as defined in *The Residential Services Act, 2018*”.

SS 1996, c E-6.01, section 2 amended

37 **Clause 2(1)(aa) of *The Election Act, 1996* is amended by striking out** “residential-service facility licensed pursuant to *The Residential Services Act*” **and substituting** “care facility licensed pursuant to *The Residential Services Act, 2018*”.

SS 1999, c F-23.3 amended

38(1) *The Funeral and Cremation Services Act* is amended in the manner set forth in this section.

(2) **Clause 103(1)(b) is amended by striking out** “residential-service facility as defined in *The Residential Services Act*” **and substituting** “care facility as defined in *The Residential Services Act, 2018*”.

(3) **Subsection 103(4) is amended by striking out** “residential-service facility as defined in *The Residential Services Act*” **and substituting** “care facility as defined in *The Residential Services Act, 2018*”.

SS 1999, c H-0.021, section 56 amended

39 **Subclause 56(e)(i) of *The Health Information Protection Act* is amended by striking out** “*The Residential Services Act*” **and substituting** “*The Residential Services Act, 2018*”.

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SS 2015, c L-30.11, section 2 amended

40 The definition of “personal care facility” in subsection 2(1) of *The Local Government Election Act, 2015* is amended by striking out “residential-service facility licensed pursuant to *The Residential Services Act*” and substituting “care facility licensed pursuant to *The Residential Services Act, 2018*”.

SS 1989-90, c P-6.01, section 2 amended

41 Subclause 2(e)(iv) of *The Personal Care Homes Act* is repealed and the following substituted:

“(iv) for which a licence is issued pursuant to *The Residential Services Act, 2018*”.

PART 11
Coming into Force

Coming into force

42 This Act comes into force on proclamation.

