

# *The Child Care Act, 2014*

*being*

Chapter C-7.31\* of the *Statutes of Saskatchewan, 2014*  
(effective June 15, 2015).

**\*NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

## **NOTE:**

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER C-7.31

### An Act to Promote the Growth and Development of Children and to Support the Provision of Child Care Services, and to make a consequential amendment to another Act

#### Short title

1 This Act may be cited as *The Child Care Act, 2014*.

#### Interpretation

2 In this Act:

“**child**” means a person under the age of:

- (a) 15 years if, in the opinion of the minister, the person has special needs; or
- (b) 13 years in any case other than that described in clause (a); (« *enfant* »)

“**child care centre**” means a facility that provides child care services, but does not include:

- (a) a family child care home; or
- (b) a group family child care home; (« *garderie non résidentielle* »)

“**child care services**” means services that have as their primary purpose the care and supervision of children; (« *services de garderie* »)

“**facility**” means:

- (a) a child care centre;
- (b) a group family child care home; or
- (c) a licensed family child care home; (« *établissement* »)

“**family child care home**” means residential premises in which child care services are provided to not more than eight children at any one time; (« *garderie résidentielle en milieu familial* »)

“**family child care provider**” means an individual who operates a family child care home; (« *exploitant de garderie en milieu familial* »)

“**group family child care home**” means residential premises in which child care services are provided to not more than 12 children at any one time; (« *garderie résidentielle de groupe en milieu familial* »)

“**group family child care provider**” means an individual who operates a group family child care home; (« *exploitant de garderie de groupe en milieu familial* »)

“**individual**” means an individual who is a resident of Canada; (« *particulier* »)

“**licence**” means a valid licence issued pursuant to this Act, and includes a provisional licence; (« *licence* »)

“**licensee**” means the holder of a licence; (« *licencié* »)

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

“**ministry**” means the ministry over which the minister presides; (« *ministère* »)

“**parent**” means the person who has lawful care or custody of a child; (« *parent* »)

“**record**” includes any information that is recorded or stored in any medium or by means of any device, including by computer or electronic media. (« *document* »)

2014, c.C-7.31, s.2.

#### Application of Act

**3** This Act does not apply to:

- (a) persons providing care and supervision exclusively to children who are members of their immediate families;
- (b) child care services that are provided exclusively to a child in the child’s home by a person other than a parent of the child; or
- (c) any other persons or services exempted by the regulations.

2014, c.C-7.31, s.3.

#### General prohibition

**4** No person shall provide child care services except in accordance with this Act and the regulations.

2014, c.C-7.31, s.4.

#### Whether licence required

**5(1)** No person shall operate a child care centre or a group family child care home, or cause a child care centre or a group family child care home to be operated, unless the person holds a licence for the child care centre or group family child care home.

**(2)** A person may operate a family child care home with or without a licence.

2014, c.C-7.31, s.5.

#### Restrictions on numbers of children

**6(1)** No person shall provide child care services to more than eight children at any one time without a licence for a child care centre or a group family child care home.

**(2)** No person shall provide child care services to more than eight children at any one time in a group family child care home unless the person is assisted in the provision of child care services by an individual who is at least 18 years of age.

- (3) No person shall provide child care services to more than 12 children at any one time in a group family child care home.
- (4) For the purpose of determining the number of children to whom child care services are being provided at residential premises at any one time, the following are to be included:
- (a) if the child care services are being provided in the principal residence of the family child care provider or group family child care provider:
    - (i) children who reside at those premises; and
    - (ii) all children who are receiving care and supervision in those premises at the relevant time, including children of the provider and children of any person assisting the provider; and
  - (b) if the child care services are being provided in a residence other than the principal residence of the family child care provider or group family child care provider, all children who are receiving care and supervision in those premises at the relevant time, including children of the provider and children of any person assisting the provider.
- (5) Compliance with subsections (1) to (4) does not relieve any person from the requirement to comply with any further restriction set out in the regulations respecting numbers of children.

2014, c.C-7.31, s.6.

#### Child care centres

7(1) In this section:

“**facility**” includes an unlicensed family child care home; (« *établissement* »)

“**interest in the operation of a facility**” does not include a loan or an interest held by way of security for a debt or other obligation. (« *intérêt dans l'exploitation d'un établissement* »)

- (2) An application for a licence for a child care centre may only be made by:
- (a) a corporation that is incorporated, registered or continued pursuant to *The Business Corporations Act* and of which all the shares are legally and beneficially owned by individuals;
  - (b) a corporation that is incorporated, registered or continued pursuant to *The Non-profit Corporations Act, 1995*;
  - (c) a co-operative that is incorporated, registered or continued pursuant to *The Co-operatives Act, 1996*;
  - (d) a municipality;

- (e) a partnership, if all partners are individuals who are residents of Saskatchewan and at least 18 years of age; or
  - (f) an individual who is a resident of Saskatchewan and at least 18 years of age.
- (3) Subject to subsection (4), a person may only apply for a licence pursuant to subsection (2) if:
- (a) the applicant does not have an interest in the operation of more than one other facility; and
  - (b) any other person who has an interest in the operation of the facility for which the application is being made does not have an interest in the operation of more than one other facility.
- (4) Subsection (3) does not apply to a corporation mentioned in clause (2)(b) or a co-operative mentioned in clause (2)(c) if the corporation or co-operative is governed by a board of directors that meets the requirements of subsection 10(1).
- (5) For the purposes of subsection (3), a shareholder of a corporation that has an interest in the operation of a facility is deemed to have an interest in the operation of the facility.

2014, c.C-7.31, s.7.

**Family child care homes and group family child care homes**

- 8** An application for a licence to operate a family child care home or a group family child care home may only be made by an individual who is:
- (a) a resident of Saskatchewan; and
  - (b) at least 18 years of age.

2014, c.C-7.31, s.8.

**Inspection by parents**

- 9** A licensee shall cause the facility to be open to inspection by parents of the children enrolled in the facility at all reasonable times during hours of operation of the facility.

2014, c.C-7.31, s.9.

**Parental involvement in child care centres**

- 10(1)** Subject to subsections (2) and (3), every child care centre that is operated by a person described in clause 7(2)(b) or (c) shall be governed by a board of directors, the majority of whose members are parents whose children:
- (a) are presently enrolled at the child care centre;
  - (b) were enrolled at the child care centre within the past 12 months; or
  - (c) if the child care centre has not yet opened, will be enrolled at the opening of the proposed child care centre.

(2) If the minister is of the opinion that compliance with subsection (1) by a licensee is not practicable because of the nature of the licensee, the minister may exempt the licensee from the requirements of subsection (1).

(3) A licensee that is exempted from the requirements of subsection (1) shall establish a parent advisory committee composed of members who:

- (a) are elected by parents of children enrolled in the child care centre; and
- (b) are parents of children enrolled in the child care centre.

2014, c.C-7.31, s.10.

#### **Innovative services**

**11** In addition to any other term or condition that the minister may include as a provision of a licence pursuant to this Act, the minister may include terms or conditions permitting the licensee to provide child care services:

- (a) exclusively for infants;
- (b) for children of teen parents;
- (c) for children residing in rural regions or localities;
- (d) for a child for a period of 24 hours or more if the minister is of the opinion that a parent of the child is unavailable to provide that care due to emergency or special circumstances; or
- (e) that are, in the opinion of the minister, required to meet exceptional needs other than those mentioned in clauses (a) to (d).

2014, c.C-7.31, s.11.

#### **Submission of applications**

**12** An applicant for a licence shall:

- (a) apply to the minister in writing, in the form required by the minister;
- (b) include in the application any information and material that the minister may request; and
- (c) submit the fee prescribed in the regulations.

2014, c.C-7.31, s.12.

#### **Issuance**

**13** On receipt of an application pursuant to section 12, if the minister is satisfied that the applicant has complied with this Act and the regulations, the minister may issue a licence to the applicant, on any terms and conditions that the minister considers appropriate.

2014, c.C-7.31, s.13.

**Provisional licence**

**14(1)** The minister may issue a provisional licence, for a period not to exceed six months, for any facility that does not comply with the requirements of this Act or the regulations if the minister is satisfied that:

- (a) the facility will comply with those requirements within six months; and
- (b) the immediate health and safety of the children to be cared for in the facility are not at risk.

**(2)** The minister may include as a provision of the provisional licence any term or condition that the minister considers appropriate.

2014, c.C-7.31, s.14.

**Licence not transferable**

**15** A licence is not transferable.

2014, c.C-7.31, s.15.

**Licence to be displayed**

**16** Every licensee shall cause the licence to be displayed in a prominent place in the facility for which it is issued.

2014, c.C-7.31, s.16.

**Compliance with licence required**

**17** No licensee shall fail to comply with a term or condition included as a provision of the licence pursuant to this Act or the regulations.

2014, c.C-7.31, s.17.

**Amendment, suspension, cancellation of licences**

**18(1)** If the minister considers it to be in the public interest to do so, the minister may amend, suspend or cancel a licence.

**(2)** For the purposes of section 5, a licence that is suspended pursuant to this section is, for the period of the suspension, deemed not to have been issued.

2014, c.C-7.31, s.18.

**Review respecting decisions**

**19(1)** Any person may request that the minister review a decision if that person is aggrieved by a decision of the minister to:

- (a) issue a licence;
- (b) refuse to issue a licence;
- (c) impose terms or conditions on a licence; or
- (d) amend, suspend or cancel 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.

2014, c.C-7.31, s.19.

#### **Inspections**

**20(1)** Subject to subsection (3), the minister, or a person appointed by the minister for the purpose, may enter any place or premises and conduct an inspection or inquiry for the purpose of:

- (a) ensuring the safety and well-being of children receiving child care services; or
  - (b) administering this Act and the regulations.
- (2) Every licensee shall, at all reasonable times during the hours of operation of the facility:
- (a) cause the 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 facility to be available for inspection by the minister or person appointed by the minister.
- (3) The minister or person appointed by the minister shall not enter a private dwelling without a warrant issued pursuant to section 21 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.

2014, c.C-7.31, s.20.

#### **Investigations**

**21(1)** If a justice or a provincial court judge is satisfied by information under oath 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) he or she 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.
- (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.

2014, c.C-7.31, s.21.

**Copies of records**

- 22(1)** If any records are removed pursuant to section 20 or 21, 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
    - (ii) any other place that may be agreed to by the minister or person appointed by the minister and the person who furnished the records or from whom they were seized.

(3) A copy of a record certified by the minister or person appointed by the minister to be a copy made pursuant to this section:

- (a) is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate; and
- (b) has the same probative force as the original record.

2014, c.C-7.31, s.22.

**Information requested by the minister**

**23(1)** The minister may:

- (a) request from a licensee 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 licensee shall fail to provide to the minister, in the manner and within the time specified by the minister, any information or material respecting the licensee or the facility that the minister requests pursuant to subsection (1).

2014, c.C-7.31, s.23.

**Agreements**

**24** The minister may enter into agreements on behalf of the Government of Saskatchewan for any purpose related to the administration of this Act, and on any terms or conditions that the minister may specify, with any person, agency, organization, association, enterprise, institution or other body within or outside Saskatchewan.

2014, c.C-7.31, s.24.

**Grants and subsidies**

**25(1)** If authorized to do so by the regulations, the minister may:

- (a) make grants to licensees;
- (b) pay subsidies to or on behalf of parents of children enrolled in facilities.

(2) Notwithstanding any provision of the regulations, the minister may include as a provision of a licence a term or condition that specifies the number or proportion of children in the facility for which the licence is issued whose parents may receive a subsidy.

2014, c.C-7.31, s.25.

**Offence**

**26** 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 during which the offence continues.

2014, c.C-7.31, s.26.

**Immunity**

**27** No action or proceeding lies or shall be commenced against the minister, the ministry, a peace officer, or any officer or employee of the ministry or agent of the minister, where 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.

2014, c.C-7.31, s.27.

**Exemption**

**28** If the minister considers it to be in the public interest to do so, the minister may exempt any facility, or any person, from all or any part of this Act or the regulations.

2014, c.C-7.31, s.28.

**Municipal bylaws**

**29** Notwithstanding any other Act, the minister may, by order, exempt any person, category of persons, facility or category of facilities from the application of any bylaw or part of a bylaw made by a municipality that regulates facilities or persons who operate facilities.

2014, c.C-7.31, s.29.

**Regulations**

**30(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) establishing categories of facilities, licences, licensees or children for the purposes of the regulations;
- (c) designating any services as services that are not child care services as that term is defined in section 2;
- (d) establishing standards for the design, construction, operation and maintenance of facilities or categories of facilities, including standards for furnishings and equipment and requiring compliance with those standards;
- (e) establishing standards of health, safety, nutrition and discipline in facilities or categories of facilities and requiring compliance with those standards;
- (f) prescribing the hours of operation of any facility or category of facilities;
- (g) prescribing:
  - (i) the personnel requirements for facilities or categories of facilities; and
  - (ii) the qualifications, duties and responsibilities of persons who operate or provide services in facilities or categories of facilities;

- (h) establishing standards for fire protection and emergency procedures in facilities or categories of facilities and requiring compliance with those standards;
- (i) exempting a facility or category of facilities from the requirement to meet a standard prescribed by this Act or the regulations;
- (j) prescribing elements of programs, activities or services to be provided in facilities or categories of facilities and requiring all or any of those programs, activities or services to be provided;
- (k) prescribing the records to be kept by persons who operate facilities and the circumstances under which the records are to be retained;
- (l) prescribing the maximum number, if any, of children or any category of children who may be enrolled at any time in a facility or a category of facilities and prohibiting enrolments greater than the maximum number;
- (m) prescribing the maximum number of children in a category of children that may be in attendance at any one time in a family child care home or a group family child care home;
- (n) prescribing the maximum number, if any, of children who may be cared for in a group within a facility or a category of facilities;
- (o) prescribing the maximum number of child care spaces in a facility for the care of infants;
- (p) authorizing and governing the making of grants and payment of subsidies pursuant to section 25 to any licensee or category of licensees or to parents of children enrolled in any facility or category of facilities;
- (q) respecting the provision of services to children with special needs;
- (r) prescribing the number or proportion of children with special needs who may be enrolled in a facility or a category of facilities;
- (s) prescribing the minimum age of any child who may be cared for in a facility or a category of facilities;
- (t) respecting parent advisory committees established pursuant to subsection 10(3);
- (u) prescribing the eligibility of, criteria to be met and material to be filed by applicants for licences;
- (v) prescribing and requiring the payment of application fees for licences and the circumstances in which application fees may be waived or refunded;
- (w) prescribing terms and conditions of licences or categories of licences;
- (x) requiring liability insurance to be carried by a licensee or category of licensees, prescribing the amount and governing the coverage of that insurance;

- (y) prescribing the duration of licences and the circumstances that cause a licence to terminate before the expiry date;
  - (z) establishing a system for alternate care and supervision of children enrolled in:
    - (i) a licensed family child care home in the temporary absence of the family child care provider; or
    - (ii) a group family child care home in the temporary absence of the group family child care provider or a person assisting the group family child care provider;
  - (aa) prescribing conditions of confidentiality and access respecting all records that come into being as a result of anything done pursuant to this Act or the regulations and requiring compliance with those conditions;
  - (bb) prescribing the manner in which fees charged by a facility or a category of facilities shall be calculated;
  - (cc) prohibiting a facility from charging a higher fee to a parent who is in receipt of a subsidy than is charged to a parent whose child is enrolled in the facility but who does not receive a subsidy;
  - (dd) governing the inspection of facilities and records kept respecting the operation of facilities;
  - (ee) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
  - (ff) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out this Act according to its intent.
- (2) A regulation made pursuant to clause (1)(p) may be made retroactive to a day not earlier than the commencement of the fiscal year in which the grant or subsidy contemplated by the regulation is to be paid.
- (3) In this section, “**fiscal year**” means the fiscal year of the Government of Saskatchewan.

2014, c.C-7.31, s.30.

**S.S. 1989-90, c.C-7.3 repealed**

**31** *The Child Care Act* is repealed.

2014, c.C-7.31, s.31.

**Transitional**

**32** Any licence that was issued pursuant to *The Child Care Act* and that was in force on the day before the coming into force of this Act is continued pursuant to this Act and may be amended, suspended, cancelled or otherwise dealt with as if it were issued pursuant to this Act.

2014, c.C-7.31, s.32.

**33** **Dispensed.** This/these section(s) makes consequential amendments to another/ other Act(s). Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the amendments have been incorporated into the corresponding Act(s). Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

**Coming into force**

**34** This Act comes into force on proclamation.

2014, c.C-7.31, s.34.

