

1977 BILL 88

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 88

THE SOCIAL CARE FACILITIES LICENSING ACT

MR. WOLSTENHOLME

First Reading

Second Reading

Third Reading

Bill 88
Mr. Wolstenholme

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THE SOCIAL CARE FACILITIES LICENSING ACT

(Assented to , 1977)

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

1 In this Act

- (a) “Director” means the Director of Social Care Facilities;
- (b) “inspector” means a person appointed under section 3(1) as an inspector and includes the Director;
- (c) “licence” includes a conditional licence;
- (d) “local authority” means
 - (i) a city, town, new town, village, municipal district or county, or
 - (ii) the Minister of Municipal Affairs, in the case of an improvement district or special area;
- (e) “Minister” means the Minister of Social Services and Community Health;
- (f) “social care facility” means
 - (i) a place of care for persons who are aged or infirm or who require special care,
 - (ii) an institution or a shelter as defined in Part 2 of *The Child Welfare Act*, or
 - (iii) a hostel or other establishment operated to provide accommodation and maintenance for unemployed or indigent persons.

Explanatory Notes

1 Definitions

- 2** This Act does not apply to
- (a) a contract nursing home under *The Nursing Homes Act*,
 - (b) a home or unit under *The Senior Citizens Housing Act*, or
 - (c) an approved hospital under *The Alberta Hospitals Act*.
- 3**(1) In accordance with *The Public Service Act* there may be appointed a Director of Social Care Facilities, inspectors and such other employees as may be necessary for the administration of this Act.
- (2) Where the Director is given any power or duty under this Act or the regulations, he may in writing authorize one or more persons who are
- (a) employees of a local authority, or
 - (b) employees of the Crown in right of Alberta under the administration of the Minister,
- to exercise that power or duty generally or with respect to any particular case upon such conditions or in such circumstances as the Director prescribes.
- (3) A written authorization made under subsection (2)
- (a) purporting to be signed by the Director, and
 - (b) stating that the person named therein is authorized under subsection (2) to perform the duties or exercise the powers set forth in the written authorization,
- or a copy thereof, shall be admitted in evidence as prima facie proof of that person's authorization to perform those duties and exercise those powers without proof of the signature or official character of the person appearing to have signed the written authorization.
- 4** No person shall operate a social care facility providing accommodation or care for 4 or more persons unless he holds a subsisting licence issued by the Director under this Act.
- 5**(1) An application for a licence shall
- (a) be made to the Director in such form as he may prescribe,
 - (b) state the maximum number of persons intended to be accommodated or cared for in the social care facility, and
 - (c) be accompanied by a licence fee in the amount prescribed by the regulations.

2 Application of the Act.

3 Director and staff.

4 Prohibition against operating a social care facility without a licence.

5 Licences.

(2) Upon considering an application for a licence the Director may

- (a) issue a licence,
- (b) issue a conditional licence, or
- (c) refuse to issue a licence.

(3) Unless otherwise specified, the term of a licence is one year from the date of its issue.

(4) A licence issued under this Act shall

(a) identify the social care facility that may be operated under the licence, and

(b) state

(i) the name of the person who may operate the social care facility,

(ii) the maximum number of persons who may be accommodated or cared for in the social care facility,

(iii) the term of the licence, where the term is other than one year from the date of issue, and

(iv) in the case of a conditional licence, the conditions to which the conditional licence is subject.

6(1) For the purposes of ensuring compliance with the provisions of this Act or the regulations or of any order made under this Act or the regulations or of a conditional licence, an inspector may

(a) at any reasonable hour enter a social care facility and inspect that social care facility;

(b) require the production of any books, records or other documents and may examine them, make copies of them or remove them temporarily for the purpose of making copies;

(c) inspect and take samples of any material, food, medication or equipment being used in a social care facility;

(d) perform tests, take photographs or make recordings, as the case may be, in respect of a social care facility.

(2) Where an inspector removes any books, records or other documents under subsection (1)(b), he shall

(a) give to the person from whom those items were taken a receipt for those items, and

6 Inspection.

(b) forthwith make copies of, take photographs of or otherwise record those items and forthwith return those items to the person to whom the receipt was given.

(3) Where an inspector takes samples of any material, food, medication or equipment under subsection (1)(c), he shall

(a) give to the person from whom those items were taken a receipt for those items, and

(b) upon that person's request, return those items to that person when those items have served the purposes for which they were taken.

(4) Where a person refuses to allow an inspector to exercise any powers under subsection (1) or interferes or attempts to interfere with the inspector in the exercise of those powers, the inspector may apply to the District Court by way of originating notice for an order restraining that person from preventing or interfering in any manner with the inspector in the exercise of those powers.

(5) An application under subsection (4) may be made ex parte, where the Court considers it proper to do so.

7 Where an inspector inspects a social care facility and is of the opinion that

(a) the provisions of this Act or the regulations or of an order or of a conditional licence are not being complied with, or

(b) a social care facility is not providing proper care,

he may in writing order the person operating that social care facility to take measures as specified in the order within the time limits specified in the order.

8(1) Where the Director is of the opinion that

(a) a licence holder is not providing proper care to a person accommodated or cared for in his social care facility,

(b) the premises described in the licence have become unfit or unsuitable for the purpose authorized by the licence,

(c) the number of persons accommodated or cared for in the social care facility exceeds the number specified in its licence, or

7 Order of an inspector.

8 Suspension or cancellation of licence.

- (d) a licence holder has not complied with the provisions of
 - (i) this Act or the regulations,
 - (ii) a conditional licence,
 - (iii) an order made under section 7, or
 - (iv) any other Act or regulation that applies to a social care facility,

the Director may, on 30 days' notice in writing to the licence holder, cancel or suspend the licence.

(2) Upon receiving a notice under subsection (1), the licence holder shall forthwith provide to the Director a list of

- (a) the names and addresses of persons being accommodated or cared for in the social care facility, and
- (b) the names and addresses of the relatives, guardians or committees of the persons being accommodated or cared for in the social care facility, where those names and addresses are kept on record by the licence holder.

(3) Where a notice has been given under subsection (1), the Director shall

- (a) post a notice of the cancellation or suspension in the social care facility, and
- (b) upon receiving the list referred to in subsection (2), notify those persons on the list by registered mail of the cancellation or suspension of the licence.

(4) No person shall cover up, mutilate or deface a notice referred to in subsection (3)(a) during the time the notice is posted.

(5) No person shall without the written permission of the Director remove a notice posted under subsection (3)(a).

9(1) A person

- (a) who has been refused a licence under section 5(2), or
- (b) whose licence has been cancelled or suspended under section 8,

may appeal the refusal, cancellation or suspension by serving the Minister with a notice of appeal within 30 days of being notified in writing of the refusal, cancellation or suspension.

(2) The Minister shall, within 30 days of being served with the notice of appeal, appoint an appeal board to hear the appeal.

9 Appeal.

(3) The Minister may set the time within which the appeal board is to hear an appeal and render a decision and he may extend that time.

(4) An appeal board that hears an appeal under this section may by order either

- (a) confirm the refusal, cancellation or suspension,
- (b) direct that a licence or renewal of a licence be issued,
- (c) reinstate the cancelled licence, or
- (d) remove or vary the suspension.

(5) An appeal board appointed under this section shall consist of 3 members, none of whom shall be employees of the Government of Alberta or of a local authority.

(6) The Minister shall designate one of the members of the appeal board as chairman.

(7) The Minister may pay those fees and reasonable living and travelling expenses that he considers proper to the members of an appeal board.

(8) The Director or the person whose appeal is heard by an appeal board may appeal the decision of the appeal board by filing an originating notice with the Supreme Court of Alberta within 30 days of being served with the order made under subsection (4) and the Court may make any order that an appeal board may make under subsection (4).

10 The Lieutenant Governor in Council may make regulations

- (a) classifying social care facilities;
- (b) governing the licensing of social care facilities;
- (c) governing the operation of social care facilities;
- (d) governing the admission of persons to social care facilities;
- (e) governing the standards of care to be provided in social care facilities;
- (f) respecting the employment of persons in social care facilities;
- (g) prescribing qualifications to be met by persons employed in social care facilities;

10 Regulations.

- (h) governing the standard of accommodation to be provided and maintained in a social care facility;
- (i) permitting a person to operate a social care facility without obtaining a licence under this Act;
- (j) prescribing licence fees;
- (k) prescribing the books, records and other documents that a licence holder must maintain.

11 Where an order is made under section 7 or 9 or under the regulations, or a notice is given under section 8(1), that order or notice, as the case may be, shall be served

- (a) by personal service upon the person to whom it is made,
- (b) by double registered mail if the post office receipt for the envelope containing the order is signed by the person to whom the order is made, or
- (c) as directed by a judge of the District Court.

12 Where an application is made to a court under section 6(4) or an appeal is made under section 9(8) the court may make such award as to costs as it considers proper.

13 A person who contravenes any provision of this Act or the regulations or fails to comply with an order made under this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$500 and in the case of a continuing offence, to a further fine of not more than \$100 for each day during which the offence continues after the first day or part thereof.

14 A licence issued under *The Welfare Homes Act* remains in force as though it were issued under this Act and expires one year from the date it was issued unless sooner cancelled or suspended under this Act.

15 *The Department of Social Services and Community Health Act* is amended in section 6(1) by adding after clause (c) the following:

- (c.1) acquire, maintain and operate social care facilities (as defined in *The Social Care Facilities Licensing Act*) and otherwise provide for the care, rehabilitation or training of persons who are minors or who are unemployed, aged or infirm or who require special care,

11 Service of an order.

12 Awarding of costs.

13 Offences.

14 Licences issued under The Welfare Homes Act.

15 This section will amend chapter 25 of the Statutes of Alberta, 1971.

(c.2) make regulations fixing the rates to be charged to persons residing in social care facilities (as defined in *The Social Care Facilities Licensing Act*) that are owned and operated by the Government of Alberta,

16 *The Welfare Homes Act* is repealed.

17 This Act comes into force on the day upon which it is assented to.

16 This section will repeal Chapter 390 of the Revised Statutes of Alberta 1970.