

2020 Bill 39

Second Session, 30th Legislature, 69 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 39

**CHILD CARE LICENSING (EARLY
LEARNING AND CHILD CARE)
AMENDMENT ACT, 2020**

THE MINISTER OF CHILDREN'S SERVICES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 39

BILL 39

2020

CHILD CARE LICENSING (EARLY LEARNING AND CHILD CARE) AMENDMENT ACT, 2020

(Assented to , 2020)

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

Amends SA 2007 cC-10.5

1 The *Child Care Licensing Act* is amended by this Act.

2 The title and chapter number are repealed and the following
is substituted:

EARLY LEARNING AND CHILD CARE ACT

Chapter E-0.1

3 The preamble and the enacting clause are repealed and the
following is substituted:

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

Explanatory Notes

1 Amends chapter C-10.5 of the Statutes of Alberta, 2007.

2 The title and chapter number presently read:

CHILD CARE LICENSING ACT
Chapter C-10.5

3 The preamble and the enacting clause presently read:

WHEREAS the Government of Alberta recognizes the importance of ensuring the safety, well-being and development of children receiving child care;

WHEREAS the Government of Alberta is committed to facilitating choice for families who require child care; and

WHEREAS the Government of Alberta recognizes and values the role of parents in the provision of quality child care;

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

4 Section 1 is amended

(a) by repealing clauses (b) and (c) and substituting the following:

- (b) “child care” means the temporary care and supervision of a child by an individual other than the child’s parent or guardian, but does not include
 - (i) a group home, foster home or other residential care setting;
 - (ii) a program or service provided under the *Education Act*;
 - (iii) a day camp, vacation camp or other recreational program that is operated for less than 12 consecutive weeks in any 12-month period;
 - (iv) supervision of children at a recreational facility, retail centre or other commercial establishment where the parents or guardians of the children remain on the premises and are immediately available;
- (c) “child care program” means a facility-based program or a family day home program;

(b) by repealing clause (e);

(c) by repealing clause (f) and substituting the following:

- (f) “facility-based licence” means a licence issued under section 5;
- (f.1) “facility-based program” means a child care program that is offered or provided under a facility-based licence;
- (f.2) “family day home agency licence” means a licence issued under section 18.3;
- (f.3) “family day home program” means a child care program that is offered or provided by an individual
 - (i) in the individual’s private residence, and

4 Section 1 presently reads in part:

1 In this Act,

- (b) “child care” means the temporary care and supervision of a child by an individual other than the child’s parent or guardian, but does not include residential care;*
- (c) “child care program” means a program with the primary purpose of providing child care to 7 or more children, but does not include the following:*
 - (i) an education program provided under the Education Act;*
 - (ii) a day camp, vacation camp or other recreational program that operates for less than 12 consecutive weeks;*
 - (iii) supervision of children at a recreational facility, retail centre or other commercial establishment where the parents of the children remain on the premises and are readily available;*
- (e) “director” means an individual designated by the Minister as the director for the purposes of this Act;*
- (f) “licensed child care program” means a child care program in respect of which a licence has been issued under this Act;*
- (g) “Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act.*

- (ii) under the oversight of a licensed family day home agency;
 - (f.4) “licensed facility-based program” means a facility-based program in respect of which a licence has been issued under section 5;
 - (f.5) “licensed family day home agency” means the holder of a family day home agency licence;
- (d) by adding the following after clause (g):**
- (h) “statutory director” means an individual designated by the Minister as the statutory director for the purposes of this Act.

5 The following is added after section 1:

Principles

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

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

Matters to be considered by providers of child care programs

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

- (a) children should be encouraged in having care and play experiences that support their development and learning;
- (b) the child is to be protected from all forms of physical punishment, physical and verbal abuse and emotional deprivation;

5 Principles; matters to be considered by providers of child care programs.

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

6 The heading preceding section 2 and section 2 are repealed and the following is substituted:

Statutory director

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

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

**Part 1
Facility-based
Licences**

7 Section 3 is repealed and the following is substituted:

6 The heading preceding section 2 and section 2 presently read:

*Part 1
Licensed Child
Care Programs*

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

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

7 Section 3 presently reads:

Requirement for facility-based licence

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

8 Section 4 is repealed and the following is substituted:

Application for issuance or renewal of facility-based licence

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

(2) An application under this section

- (a) must be made to the statutory director in a form and manner satisfactory to the statutory director,
- (b) must contain the information required by the regulations and any other information the statutory director requests, and
- (c) must be accompanied with the application fee set under subsection (4).

(3) A person who

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

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

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

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

3 No person shall offer or provide a child care program unless the person holds a licence issued by the director authorizing that person to offer or provide the child care program.

8 Section 4 presently reads:

4(1) An application for a licence or a renewal of a licence may be made by an adult or a corporation.

(2) A person who

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

is ineligible, for a period of 2 years after the date of the refusal or cancellation, to apply for an initial licence.

(3) An application under this section must be made to the director in the prescribed form and must be accompanied with

- (a) the information required under the regulations, and*
- (b) the application fee prescribed in the regulations.*

9 Section 5 is repealed and the following is substituted:

Licence to provide facility-based program

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

- (a) issue or renew, with or without conditions, a licence to provide a facility-based program, or
- (b) refuse to issue or to renew a licence to provide a facility-based program if the statutory director
 - (i) is not satisfied that the applicant is capable of providing a facility-based program in accordance with this Act or the regulations,
 - (ii) is satisfied that the applicant has made a false statement in the application or in any information provided to the statutory director in support of the application, or
 - (iii) has reasonable and probable grounds to believe that any individual associated with the provision of the proposed facility-based program is not suitable to provide child care.

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

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

10 Section 6 is amended

(a) in subsection (1)

- (i) **in the portion preceding clause (a) by striking out “licence issued or renewed under section 5” and substituting “facility-based licence that is issued or renewed”;**

9 Section 5 presently reads:

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

- (a) issue or renew a licence, with or without conditions, or*
- (b) refuse to issue or to renew a licence if the director*
 - (i) is not satisfied that the applicant is capable of providing a child care program in accordance with this Act or the regulations,*
 - (ii) is satisfied that the applicant has made a false statement in the application or in any information provided to the director in support of the application, or*
 - (iii) has reasonable and probable grounds to believe that any individual associated with the provision of the proposed child care program is not suitable to provide child care.*

(2) The term of a licence must be set by the director, and must not be more than

- (a) one year, in the case of an initial licence, or*
- (b) 3 years, in the case of the renewal of a licence.*

10 Section 6 presently reads:

6(1) A licence issued or renewed under section 5 must indicate the following:

- (a) the name of the licence holder;*

- (ii) **by repealing clause (b);**
- (iii) **in clause (c) by striking out “child care program is” and substituting “facility-based program is authorized”;**
- (iv) **in clause (d) by striking out “child care” and substituting “facility-based”;**
- (v) **in clause (e) by adding “in the case of an initial licence,” before “the term”;**
- (vi) **by adding the following after clause (e):**
 - (f) any other conditions to which the licence is subject.

(b) in subsection (2)

- (i) **by striking out “director” wherever it occurs and substituting “statutory director”;**
- (ii) **by striking out “subsection (1)(b) to (e)” and substituting “subsection (1)(c) to (f)”.**

11 The following is added after section 6:

Safety codes

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

12 Section 7 is amended by striking out “A licence” and substituting “A facility-based licence”.

13 The following is added after section 7:

Notice of change in licence holder’s directors or officers

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

- (b) the category of child care program, in accordance with the categories established in the regulations, that may be provided under the licence;*
 - (c) the location of the premises where the child care program is to be provided;*
 - (d) the maximum number of children who may be cared for in the child care program;*
 - (e) the term of the licence.*
- (2) The director may, on the application by a licence holder in a manner satisfactory to the director, vary a provision of a licence referred to in subsection (1)(b) to (e).*

11 Safety codes.

12 Section 7 presently reads:

7 A licence is not transferable by the licence holder to any other person.

13 Notice of change in licence holder's directors or officers.

14 Section 8 is amended by striking out “A licence” and substituting “An initial facility-based licence”.

15 Section 9 is repealed and the following is substituted:

Duty to post information and inform parents or guardians

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

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

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

16 Section 10 is amended

(a) in subsection (1)

(i) in the portion preceding clause (a) by striking out “this Act and the regulations, the director” and substituting “this Act, the regulations and the conditions, if any, of a facility-based licence, the statutory director”;

(ii) in clauses (a) and (b) by striking out “child care” wherever it occurs and substituting “facility-based”;

(b) in subsections (2) to (4) by striking out “director” wherever it occurs and substituting “statutory director”;

14 Section 8 presently reads:

8 A licence expires at the end of the term of the licence unless it is renewed.

15 Section 9 presently reads:

9 A licence holder must post, in a clearly visible and prominent place on the premises where a licensed child care program is being provided,

- (a) the licence,*
- (b) any report provided by the director under section 10(3),*
- (c) any conditions imposed on the licence under section 5(1) or 13, and*
- (d) any probationary licence issued under section 15.*

16 Section 10 presently reads in part:

10(1) For the purpose of ensuring compliance with this Act and the regulations, the director may

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

(c) in subsection (5)

(i) in clause (a)

(A) by striking out “director” and substituting “statutory director”;

(B) by striking out “child care” wherever it occurs and substituting “facility-based”;

(ii) in clauses (b) and (c) by striking out “director” wherever it occurs and substituting “statutory director”.

17 The heading preceding section 11 and section 11 are repealed and the following is substituted:

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

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

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

(4) If a person

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

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

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

- (a) directing the licence holder to allow the director to enter the premises where the child care program is being offered or provided and inspect the premises and monitor the child care program,*
- (b) directing the licence holder to produce to the director any records or other documents required by the director,*
- (c) directing any police officer to assist the director in enforcing the order, and*
- (d) addressing any other matter the Court considers appropriate.*

17 The heading preceding section 11 and section 11 presently read:

Part 2 Enforcement Respecting Licensed Facility-based Programs

Authority of statutory director

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

Notice of non-compliance

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

18 Section 12 is repealed and the following is substituted:

Variation of licence provisions

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

19 Section 13 is repealed and the following is substituted:

Imposition of conditions on licence

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

20 Section 14 is repealed and the following is substituted:

Order to remedy non-compliance

14 The statutory director may, in writing, order a holder of a facility-based licence to take measures specified in the order within the time limits specified in the order.

21 Section 15 is amended

(a) **by repealing subsection (1) and substituting the following:**

*Part 2
Enforcement Respecting Licensed
Child Care Programs*

11 Where the director is of the opinion that a licensed child care program is not being provided in accordance with this Act or the regulations, the director may take any action authorized by this Part that the director considers appropriate.

18 Section 12 presently reads:

12 The director may vary a provision of a licence referred to in section 6(1)(b) to (e).

19 Section 13 presently reads:

13 The director may impose conditions on a licence for a specified period of time.

20 Section 14 presently reads:

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

21 Section 15 presently reads in part:

15(1) The director may suspend a licence and issue a probationary licence.

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

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

- (b) in subsections (4) and (5) by striking out “director” wherever it occurs and substituting “statutory director”.**

22 Section 16 is amended

- (a) by repealing subsection (1) and substituting the following:**

Cancellation of facility-based licence

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

- (b) in subsection (2)**
- (i) in the portion preceding clause (a) by adding “facility-based” before “licence”;**
- (ii) in clause (a) by striking out “director is of the opinion that the licensed child care program” and substituting “statutory director is of the opinion that the licensed facility-based program”;**

- (c) by adding the following after subsection (2):**

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

23 Section 17 is amended

- (a) in subsection (1) by striking out “director” wherever it occurs and substituting “statutory director”;**
- (b) in subsection (2) by adding “facility-based” before “licence”;**

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

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

22 Section 16 presently reads:

16(1) The director may cancel a licence.

(2) The cancellation of a licence takes effect

(a) immediately on the posting of a notice of cancellation on the premises, if the director is of the opinion that the licensed child care program is being provided in a manner that presents an imminent danger to the health, safety or well-being of a child, or

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

23 Section 17 presently reads:

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

(a) setting out the action taken by the director and the reasons for the action, and

(c) in subsection (3)

(i) in clauses (b) and (c) by striking out “director” and substituting “statutory director”;

(ii) by repealing clause (d) and substituting the following:

(d) by email to the licence holder’s last email address known to the statutory director, if there is a record of the email, or

(d) in subsection (4) by striking out “director” and substituting “statutory director”.

24 Section 18(1) is amended

(a) in the portion preceding clause (a) by striking out “director” and substituting “statutory director”;

(b) in the portion following clause (b) by striking out “child care” and substituting “facility-based”.

25 The following is added after section 18:

(b) informing the licence holder of the licence holder's right to appeal the matter to an appeal panel under section 21.

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

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

(a) by personal service,

(b) by ordinary mail to the licence holder's last address known to the director,

(c) by fax to the licence holder's last fax number known to the director, if there is a record of the fax,

(d) by e-mail to the licence holder's last e-mail address known to the director, if there is a record of the e-mail, or

(e) in any manner that may be directed by the Court.

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

24 Section 18(1) presently reads:

18(1) The director

(a) may post a notice of an action taken under sections 12 to 15, and

(b) must post a notice of a cancellation under section 16,

in a clearly visible and prominent place on the premises where the licensed child care program is provided.

25 Restriction on family day home programs; application for family day home agency licence; family day home agency licence; provisions of family day home agency licence and variation; licence not transferable; notice of change in licence holder's directors or officers; expiry; authority of statutory director; variations, imposition of conditions or order to remedy; cancellation of family day home agency licence; duty to notify licence holder.

Part 2.1
Family Day Home Programs
and Licensed Family
Day Home Agencies

Restriction on family day home programs

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

Application for family day home agency licence

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

(2) An application under this section

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

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

Family day home agency licence

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

- (a) issue or renew, on any conditions the statutory director considers appropriate, a family day home agency licence, or
- (b) refuse to issue or to renew a family day home agency licence if the statutory director
 - (i) is not satisfied that the applicant is capable of providing appropriate oversight of family day home programs,
 - (ii) is satisfied that the applicant has made a false statement in the application or in any information provided to the statutory director in support of the application, or

(iii) has reasonable and probable grounds to believe that any individual associated with the applicant is not suitable to oversee the provision of child care by family day home programs.

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

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

Provisions of family day home agency licence and variation

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

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

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

Licence not transferable

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

Notice of change in licence holder's directors or officers

18.6 Where a family day home agency licence is held by a corporation and there is a change in the directors or officers of the

corporation, the licence holder must notify the statutory director of the change, in writing, within 15 days of the change.

Expiry

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

Authority of statutory director

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

Variation, imposition of conditions or order to remedy

18.9 The statutory director may

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

Cancellation of family day home agency licence

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

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

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

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

Duty to notify licence holder

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

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

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

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

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

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

26 The heading preceding section 19 is repealed and the following is substituted:

26 The heading preceding section 19 presently reads:

Part 3 Reviews, Alternative Dispute Resolution and Appeals

27 The following is added before section 19:

Definitions for Part 3

18.93 In this Part,

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

Administrative reviews

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

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

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

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

(4) On completing a review the statutory director

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

Part 3
Appeals

27 Definitions for Part 3; administrative reviews; alternative dispute resolution.

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

Alternative dispute resolution

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

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

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

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

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

(5) No action may be brought against a person who conducts alternative dispute resolution under this section for any act done

or omitted to be done with respect to the alternative dispute resolution unless it is proved that the person acted maliciously and without reasonable and probable cause.

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

28 Section 20(2)(a) and (b) are amended by striking out “director” and substituting “statutory director”.

29 Section 21 is amended

(a) by repealing subsection (1) and substituting the following:

Appeals

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

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

(b) by repealing subsections (2) and (3) and substituting the following:

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

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

28 Section 20(2) presently reads:

(2) An appeal panel

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

29 Section 21 presently reads:

21(1) A licence holder, a person who applies for a licence or the renewal of a licence or a person to whom a decision referred to in clause (j) pertains, as the case may be, may appeal any of the following decisions of the director to an appeal panel:

- (a) a decision under section 5(1)(a) to issue or renew a licence subject to conditions;*
- (b) a decision under section 5(1)(b) to refuse to issue or renew a licence, except a decision to refuse to issue a licence to provide a child care program that is categorized as an innovative child care program under the regulations;*
- (c) a decision under section 6(2) to refuse to vary a provision of a licence;*
- (d) a decision under section 12 to vary a provision of a licence;*
- (e) a decision under section 13 to impose conditions on a licence;*
- (f) a decision under section 14 to issue an order;*
- (g) a decision under section 15(1) to suspend a licence and issue a probationary licence;*

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

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

- (c) in subsection (4) by striking out “director” and substituting “statutory director”.**

30 The heading preceding section 22 is repealed and the following is substituted:

Part 4 Investigation Respecting Unlicensed Child Care

31 Section 22 is amended

- (a) by repealing subsection (1) and substituting the following:**

Investigation

22(1) If the statutory director has reasonable and probable grounds to believe that a person is, without a facility-based licence, offering or providing child care to more than 6 children, not including the person’s own children, the statutory director may, with the permission of the person in charge of the premises in which the child care is being offered or provided,

- (a) at any reasonable hour, enter the premises for the purpose of conducting an investigation with respect to the matter, and

(h) a decision under section 15(5) to refuse to reinstate a licence that has been suspended;

(i) a decision under section 16 to cancel a licence;

(j) a decision prescribed in the regulations as being subject to an appeal to an appeal panel.

(2) A cancellation of a licence under section 16 remains in force pending the outcome of an appeal.

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

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

30 The heading preceding section 22 presently reads:

*Part 4
Investigation Respecting Unlicensed
Child Care Programs*

31 Section 22 presently reads in part:

22(1) If the director has reasonable and probable grounds to believe that a person is offering or providing a child care program without a licence, the director may, with the permission of the person in charge of the premises in which the child care program is being offered or provided,

(a) at any reasonable hour, enter the premises for the purpose of conducting an investigation with respect to the child care program, and

(b) examine any records or other documents relevant to the investigation.

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

(a) the person in charge of the premises

(b) examine any documents or other records, whether in physical or electronic form, that are relevant to the investigation.

(b) in subsection (2) by striking out “director” wherever it occurs and substituting “statutory director”.

(c) by repealing subsection (3) and substituting the following:

(3) On being satisfied that there are reasonable and probable grounds to believe that a person is, without a facility-based licence, offering or providing child care to more than 6 children, not including the person’s own children, the Court may make an order

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

32 Section 23 is amended

(a) by repealing subsection (1) and substituting the following:

Stop order

23(1) If the statutory director is satisfied that a person is, without a facility-based licence, offering or providing child care to more than 6 children, not including the person’s own children, the statutory director may, in writing, order that person to cease offering or providing the child care.

- (i) *refuses to permit the director to enter the premises or to examine records or documents under subsection (1), or*
- (ii) *after permitting the director to enter the premises, obstructs the director in exercising rights and performing duties under this section,*

or

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

(3) On being satisfied that there are reasonable and probable grounds to believe that a person is offering or providing a child care program without a licence, the Court may make an order

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

32 Section 23 presently reads in part:

23(1) If the director is satisfied that a person is offering or providing a child care program without a licence, the director may, in writing, order that person to cease offering or providing the child care program.

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

(3) On being satisfied that a person is offering or providing a child care program without a licence, the Court may make an order

(b) in subsection (2) by striking out “director” and substituting “statutory director”;

(c) by repealing subsection (3) and substituting the following:

(3) On being satisfied that a person is, without a facility-based licence, offering or providing child care to more than 6 children, not including the person’s own children, the Court may make an order directing the person to cease offering or providing the child care.

(d) by repealing subsection (4) and substituting the following:

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

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

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

(e) in subsection (6) by striking out “director” and substituting “statutory director”;

33 Section 24 is repealed and the following is substituted:

Exemption, variation or new terms

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

directing the person to cease offering or providing the child care program.

(4) The director must serve an order under subsection (1) or (3) by personal service on the person to whom it is directed

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

33 Section 24 presently reads:

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

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

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

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

Standards and certification

24.1(1) The Minister may set standards respecting

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

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

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

34 Section 25 is repealed.

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

34 Section 25 presently reads:

25(1) In this section, “family day home program” means a program under which a person with whom the director has entered into an agreement under subsection (2) co-ordinates and monitors the provision of child care

- (a) *in the private residence of one or more child care providers, and*
- (b) *to not more than 6 children in each private residence referred to in clause (a).*

35 Section 26 is amended

(a) by striking out “or” at the end of clause (a) and adding the following after clause (a):

(a.1) provides, or engages another person to provide, child care in a child care program without meeting the applicable training or certification standards set by the Minister under section 24.1, or

(b) in clause (b) by striking out “the director, the director’s” and substituting “the statutory director, the statutory director’s”.

36 Section 27(1) is amended

(a) in clause (a) by striking out “prescribing” and substituting “respecting”;

(b) by adding the following after clause (c):

(c.1) respecting the information that must accompany an application under section 18.2;

(c) by repealing clause (d) and substituting the following:

(d) respecting the application process for the purposes of section 4 or 18.2;

(d.1) giving the statutory director discretion, despite section 18.3, to decline to consider applications that are or may be made under section 18.2;

(d) in clause (e) by striking out “establishing categories of” and substituting “respecting”;

(e) in clause (f) by striking out “licence holders for each category of child care program” and substituting “licence holders in respect of child care programs”;

(f) by repealing clause (g) and substituting the following:

(2) The director may enter into an agreement with any person respecting the administration of a family day home program by that person.

35 Section 26 presently reads:

26 Any person who

- (a) offers or provides a child care program without a licence, or*
- (b) obstructs or interferes with, or attempts to obstruct or interfere with, the director, the director's delegate, a police officer or any other duly authorized person exercising any power or performing any duty under this Act*

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

36 Section 27(1) presently reads in part:

27(1) The Minister may make regulations

- (a) prescribing forms required under this Act;*
- (c) respecting fees payable with an application under section 4;*
- (d) respecting the application process;*
- (e) respecting categories of child care programs;*
- (f) respecting the standards that must be maintained by licence holders for each category of child care program;*
- (g) respecting levels of child care worker certification and the certification of individuals as child care workers by the director;*
- (i) prescribing matters in respect of which a decision of the director may be appealed to an appeal panel;*
- (i.1) respecting the emergency circumstances in which an appeal may be heard by one member of an appeal panel;*
- (j) respecting exemptions from the need to comply with one or more requirements of the regulations.*

- (g) establishing levels of child care certification and respecting the certification of individuals by the statutory director under section 24.1;

(g) by repealing clause (i) and substituting the following:

- (i) prescribing, for the purposes of section 21(1) or (1.1) or both, decisions of the statutory director that may be appealed to an appeal panel;
- (i.01) respecting notices of appeal;

37 Section 28(1)(b) is amended by striking out “director” and substituting “statutory director”.

38 The following is added after section 28:

Transitional

28.1(1) In this section,

- (a) “former Act” means this Act as it read immediately before the coming into force of this section;
 - (b) “former regulations” means the regulations as they read immediately before the coming into force of this section.
- (2)** Where, immediately before the coming into force of this section, a child care program is being offered or provided under the former regulations as a day care program, an out of school program or a pre-school program,
- (a) this Act and the regulations, as they read on the coming into force of this section, do not apply in respect of the child care program until February 1, 2021,
 - (b) the former Act and the former regulations continue to apply in respect of the child care program until the expiration of January 31, 2021, and

37 Section 28(1)(b) presently reads:

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

(b) the licence is cancelled by the director under section 16.

38 Transitional.

- (c) notwithstanding the term specified in the licence under which the child care program is being offered or provided, the licence expires on the expiration of January 31, 2021 unless it is sooner cancelled under section 16 of the former Act.
- (3) Where, immediately before the coming into force of this section, a child care program is being offered or provided under the former regulations as a group family child care program or an innovative child care program,
- (a) this Act and the regulations, as they read on the coming into force of this section, do not apply in respect of the child care program,
 - (b) the former Act and the former regulations continue to apply in respect of the child care program, and
 - (c) notwithstanding the term specified in the licence under which the child care program is being offered or provided, the licence does not expire but remains subject to cancellation under section 16 of the former Act.
- (4) Where, immediately before the coming into force of this section, a person is co-ordinating and monitoring the provision of child care under an agreement under section 25 of the former Act,
- (a) the agreement remains valid, notwithstanding the repeal of section 25 of the former Act, until it expires or is terminated, and
 - (b) the person is not required to hold a family day home agency licence until after the agreement expires or is terminated, as the case may be.

Consequential and Related Amendments

Amends SA 2009 cP-29.1

39 The *Protection for Persons in Care Act* is amended in section 1(1)(f.1)(iii) by striking out “*Child Care Licensing Act*” and substituting “*Early Learning and Child Care Act*”.

39 Amends chapter P-29.1 of the Statutes of Alberta, 2009.
Section 1(1) presently reads in part:

1(1) In this Act,

(f.1) “facility” means

Amends RSA 2000 cP-37

40 The *Public Health Act* is amended in the following provisions by striking out “*Child Care Licensing Act*” and substituting “*Early Learning and Child Care Act*”:

section 1(1)(x) and (mm)(iii);
section 18.1(1)(b);
section 66(2)(b).

Amends RSA 2000 cP-39

41 The *Public Inquiries Act* is amended in section 7(2)(b)(i.1) by striking out “*Child Care Licensing Act*” and substituting “*Early Learning and Child Care Act*”.

Amends SA 2017 cR-2.5

42 The *Radon Awareness and Testing Act* is amended

(a) in section 3

(i) in subsection (1)

(A) by striking out “section 4 of the *Child Care Licensing Act*” and substituting “Part 1 of the *Early Learning and Child Care Act*”;

(B) by striking out “director” wherever it occurs and substituting “statutory director”;

(ii) in subsection (2) by striking out “director” and substituting “statutory director”.

(b) in section 5(2) in the new subsection (1.1) by striking out “director” and substituting “statutory director”.

(iii) *the premises where a child care program that is licensed under the Child Care Licensing Act is offered or provided;*

40 Amends chapter P-37 of the Revised Statutes of Alberta 2000.

41 Amends chapter P-39 of the Revised Statutes of Alberta 2000. Section 7(2) presently reads in part:

(2) *In this section,*

(b) *“public building” includes*

(i.1) *the premises where a child care program that is licensed under the Child Care Licensing Act is offered or provided,*

42 Amends chapter R-2.5 of the Statutes of Alberta, 2017. Section 3 presently reads and section 5 presently reads in part:

3(1) Prior to a licence being issued or renewed for a child care program under section 4 of the Child Care Licensing Act, the director under that Act shall require an applicant to provide the director with the results of a radon test completed within one year immediately preceding the submission of the application within the premises where the child care program will be provided.

(2) If the results of the radon test completed under subsection (1) exceed the acceptable radon level prescribed by the regulations, the director shall require the applicant to provide a plan to reduce the radon level in accordance with the prescribed standards.

5(1) The Child Care Licensing Act is amended by this section.

(2) Section 5 is amended by adding the following after subsection (1):

(1.1) On considering an application under section 4, the director may refuse to issue or renew a licence if the director has not received the results of a radon test or a radon reduction plan in accordance with section 3 of the Radon Awareness and Testing Act.

43 This Act has effect on February 1, 2021.

43 Coming into force.

