



BERMUDA

CHILD DAY CARE ALLOWANCE REGULATIONS 2008

BR 66 / 2008

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The Minister responsible for financial assistance, in exercise of the powers conferred by section 17 of the Child Day Care Allowance Act 2008, makes the following regulations:

Citation

- 1 These regulations may be cited as the Child Day Care Allowance Regulations 2008.

Interpretation

- 2 In these regulations—  
“Act” means the Child Day Care Allowance Act 2008;

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“Board” means the Financial Assistance Review Board established under section 15 of the Financial Assistance Act 2001;

“applicant” means a person who is qualified under section 4 of the Act to apply for a day care allowance;

“supporting parent or spouse” means—

- (a) the parent of a child for whom an application for a day care allowance is made, who resides with the child but is not the applicant; or
- (b) the spouse of the applicant, who resides with the child for whom an application for a day care allowance is made but is not the child’s parent or guardian;

“term” means a period of 3 months during which day care is provided to eligible children, beginning on April 1, July 1, October 1 or January 1.

### Application for day care allowance

3 (1) An applicant for a day care allowance for an eligible child shall apply in writing on a form approved by the Director and shall sign and submit the completed form to the office of the Director.

(2) The application shall be accompanied by the following documents—

- (a) the birth certificate of each child for whom a day care allowance is requested;
- (b) a certificate attesting that the applicant is the legal guardian of the child, if applicable;
- (c) a pay stub or letter from each of the applicant’s employers, confirming the applicant’s total monthly income from salary or wages from that employer; and
- (d) a pay stub or letter from each of the employers of the supporting parent or spouse, confirming the supporting parent or spouses’ total monthly income from salary or wages from that employer.

### Maximum gross annual income

4 The prescribed maximum gross annual income for the purposes of section 4 of the Act is \$55,000.

*[Regulation 4 amended by BR 16 / 2011 reg. 2 effective 1 April 2011; amended by BR 67 / 2012 reg. 2 effective 5 September 2012]*

### Awards

5 (1) On granting an award under section 6 of the Act, the Director shall issue to the applicant a day care voucher naming the applicant as recipient of the award and setting out the conditions to which the award is subject, including—

- (a) the name of the child covered by the award;

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- (b) the name of the licensed day care centre or, if day care is to be provided at a home day care facility, the name of the registered day care provider; and
  - (c) the amount and duration of the award.
- (2) The maximum award that may be granted by the Director for an eligible child is \$800 per month, or the monthly cost of the child's day care, whichever is less.
- (3) The award is valid only for the amount, and during the term, indicated on the day care voucher.
- (4) The Director may not approve payment of an award if—
- (a) it has been revoked under section 12 of the Act; or
  - (b) the day care centre named on the voucher does not hold a valid licence, or in the case of a home day care facility the day care provider does not hold a certificate of registration, issued under the Children Act 1998.

### Continuation of award

- 6 (1) The Director shall send a notice to each recipient, at least 30 days before the expiry of the term for which the award is valid, inquiring whether the recipient wishes to have the award continue for another term.
- (2) If the recipient wishes the award to continue, he or she shall complete a request for reassessment, on a form approved by the Director, and sign and submit the form to the office of the Director at least 15 days before the expiry of the term for which the award is valid.
- (3) The Director shall treat every request for reassessment in the same manner as if it were an application for an award under the Act, and the Director has all the powers and duties in respect of the request that he or she has in respect of an application.
- (4) If the Director grants a continuation of the award, the Director shall issue to the recipient a day care voucher for another term, setting out on the voucher the information referred to in regulation 5(1).
- (5) Regulation 5(2), (3) and (4) apply to an award continued by the Director.
- (6) The Director may not grant a continuation of an award for another term if the child for whom the day care is requested has been absent from the day care centre or home day care facility in respect of which the award was granted for more than one term.
- (7) Nothing in paragraph (6) shall be read as preventing the Director from granting an award to an applicant who has submitted a new application for a child referred to in that paragraph.

### Investigation

- 7 The Director may—
- (a) investigate and verify any statements made in an application or a request for reassessment of an award; or

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- (b) investigate and examine the circumstances of an applicant, a recipient or a child in relation to their eligibility for an award.

### Time and manner of commencing appeal to Board

8 (1) For the purpose of section 14 of the Act, the time for appealing a decision of the Director is 30 days from the day on which the Director's decision is notified to the appellant.

(2) A request to the Board for a hearing shall be made by filing with the Board a notice of appeal.

### Notice of appeal

9 (1) The notice of appeal shall be signed by or on behalf of the appellant and shall contain the following particulars—

- (a) the appellant's name;
- (b) his or her address;
- (c) the address, if different from that referred to in paragraph (b), to which applications, notices and other documents in connection with the appeal should be sent to the appellant;
- (d) a statement of the decision or finding of the Director against which the appeal is made; and
- (e) the grounds of appeal, which shall contain sufficient particulars to show why the appellant considers the decision appealed against was unlawful or was not justified by the evidence on which it was based.

(2) The appellant shall send a copy of the notice of appeal to the Director.

### Notification of appeal and written submissions

10 (1) If the Director intends to file a written submission on the appeal, he or she shall file it with the Board within 21 days after receiving a copy of the notice of appeal.

(2) Where the Director files a written submission, he or she shall send a copy of it to the appellant.

### Notice of hearing

11 (1) The Board shall send a notice of hearing to all parties within 30 days after the filing of the notice of appeal under regulation 8(2) or the filing of a submission under regulation 10(2), as the case may be.

(2) The notice of hearing shall set out the place, date and time of the hearing.

(3) The Board shall give the parties at least 10 days notice of the hearing.

### Conduct of hearing

12 (1) The hearing of an appeal before the Board shall not be open to the public.

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(2) The appellant shall present his or her case first on a hearing of an appeal.

(3) Unless the parties agree otherwise, a party who intends to produce written or documentary evidence or written submissions at a hearing shall provide copies of that evidence or those submissions to the other party and to the Board at least 10 days before the hearing.

(4) The Board may, on the application of a party to the appeal or on its own motion, by direction given at the hearing or by notice in writing require the appellant, the Director or any other person, at a time and place stated in the notice, to attend and give evidence or produce any document in their custody or under their control which relates to any matter in question at the hearing.

(5) The Board may require any witness to give evidence on oath or affirmation.

(6) Evidence may be admitted by the Board whether or not it is admissible in a court of law.

(7) The Board shall ensure that the evidence at a hearing of an appeal is recorded by notes taken by a member of the Board participating in the hearing or by any other method by which an accurate transcript may be produced.

### Decision of Board

13 (1) The Board shall deliver a written decision to the parties to an appeal within 15 days after it last receives evidence or submissions on the appeal.

(2) The Board's decision shall include the principal findings of fact and its conclusions based on those findings.

(3) If an appellant withdraws a notice of appeal—

- (a) the Board is not required to deliver a decision; and
- (b) the withdrawal shall be deemed to be a final order.

### Board's power to determine its own procedure

14 Subject to the provisions of the Act and of these regulations, the Board shall have power to determine its own procedure.

Made this 31st day of October 2008.

Minister of Culture and Social Rehabilitation

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*[Amended by:*

BR 16 / 2011

BR 67 / 2012]