



BERMUDA

CHILDREN AMENDMENT ACT 2010

2010 : 59

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WHEREAS it is expedient to amend the Children Act 1998;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Children Act 1998 (the "principal Act"), may be cited as the Children Amendment Act 2010.

Amends section 65

2 Section 65 of the principal Act is amended by deleting and replacing the definition of "day care provider" with the following—

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“day care provider” means a person who provides day care to not more than three children for reward at such premises, including the place of residence of such person, as may be approved by the Chief Medical Officer.

Amends section 67

3 Section 67 of the principal Act is amended in paragraph (b) by deleting the fullstop and substituting a semicolon, and by inserting the following after paragraph (b)—

“(c) the premises used by the day care provider are safe, and that any equipment is of good quality and appropriate to the needs of the children.”.

Amends section 68

4 Section 68 of the principal Act is amended—

- (a) in subsection (2) by deleting the words “or the renewal of a licence”;
- (b) in subsection (3) by deleting the words “or renew”; and
- (c) in subsection (7)(d) by deleting the word “conditions” and substituting “terms and conditions or restrictions”.

Amends section 69

5 Section 69 of the principal Act is amended—

- (a) by repealing and replacing subsection (1) with the following—

“(1) A person seeking renewal of a licence shall apply to the Chief Medical Officer in the prescribed form at least 30 days before the date of the expiration of the licence, setting out any alteration in the information given in the original application.”; and

- (b) by repealing and replacing subsection (2)(a) with the following—

“(a) the applicant and the day care centre comply with this Part and the regulations; and”.

Amends section 73

6 Section 73(2) of the principal Act is repealed and replaced with the following—

“(2) Inspectors shall inspect day care facilities in respect of which an application for a licence is made, and shall make periodic inspections of licensed day care centres.”.

Amends section 74

7 Section 74 of the principal Act is repealed and replaced with the following—

“Order for closure or to comply with decision of the Chief Medical Officer

74 (1) The Minister may issue an order to an operator of a day care centre directing him to cease to operate the day care centre, or to otherwise comply with a decision of the Chief Medical Officer, within such time as may be specified in the order.

(2) Where an order under subsection (1) has been issued directing a day care operator to cease to operate a day care centre, the Minister shall give the reasons for his decision and, if he deems necessary, cause any inspection, enquiries, or investigations to be undertaken and reported on, and to give such directions as he considers appropriate.

(3) The Minister may inform the public of an order issued under subsection (1) in such manner as he considers appropriate.

(4) An operator of a day care centre who is aggrieved by an order issued under subsection (1) may, within 14 days of receipt of the order, appeal by notice in writing to the court and the court may confirm, reverse or vary the order and give such directions as it considers appropriate.”

Amends section 76

8 Section 76 of the principal Act is amended—

(a) by deleting the heading and substituting “Day care providers”;

(b) by repealing and replacing subsection (6) with the following—

“(6) A certificate of registration shall be in the prescribed form and shall expire one year from the date of registration or at such other time as the Chief Medical Officer may specify in the certificate.”;

(c) by inserting after subsection (6) the following—

“(6A) The Chief Medical Officer may issue a provisional certificate for a period not exceeding six months and shall, during the provisional period, monitor the day care provided by the day care provider.

(6B) Section 68(7) applies, with the necessary changes, to a certificate issued to a day care provider.

(6C) Section 69 applies to a person seeking renewal of registration, except that the Chief Medical Officer shall renew the registration if he is satisfied that the requirements of subsection (4) of this section are met.”; and

(d) by repealing and replacing subsections (7) and (8) with the following—

“(7) The Chief Medical Officer, after giving the applicant or a person who is registered an opportunity to be heard, may cancel, suspend, refuse to register or refuse to renew a registration where he is satisfied that the applicant or the registered person has violated any provision of this Act or the regulations or has

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not complied with any term, condition or restriction attached to the registration or is not a fit and proper person to be registered.

(8) Section 70(2) applies, with the necessary changes, to a cancellation, suspension, refusal to register or refusal to renew a registration.”

Inserts sections 76A, 76B and 76C

9 The principal Act is amended by inserting the following after section 76—

“Inspection and power of entry

76A Section 73 applies, with the necessary changes, to the inspection and power of entry of the premises used by a day care provider.

Order to cease providing day care

76B (1) The Minister may issue an order to a day care provider directing him to cease providing day care or to otherwise comply with a decision of the Chief Medical Officer within such time as may be specified in the order.

(2) Section 74(2), (3) and (4) apply, with the necessary changes, to an order issued by the Minister under subsection (1) of this section.

Records, returns and reports

76C Section 75 applies, with the necessary changes, to the maintaining and furnishing of records, reports and returns by a day care provider.”.

Amends section 77

10 Section 77(c) of the principal Act is amended by inserting after “74” the words “or 76B”.

Amends section 78

11 Section 78 of the principal Act is amended by repealing subsection (2) and replacing it with the following—

“(2) A person who is aggrieved by a decision of the Minister under subsection (1) may, within 14 days of receipt of the notice of the decision, appeal by notice in writing to the court and the court may confirm, reverse or vary the decision of the Minister and give such directions as it considers appropriate.”

Amends section 79

12 Section 79(1) of the principal Act is amended—

(a) by deleting the words “The Minister may make regulations” and substituting “For the purposes of this Part, the Minister may make regulations”;

(b) in paragraph (c) by deleting the words “certificate of”;

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- (c) in paragraph (d) by inserting after “licence” the words “or a certificate of registration”;
- (d) in paragraph (k) by inserting after “centres” the words “, the day care provided by day care providers,”; and
- (e) in paragraph (l) by deleting “Act” and substituting “Part”.

[Assent Date: 22 December 2010]

[Operative Date: 22 December 2010]