

Chapter 12

EARLY LEARNING AND CHILD CARE ACT

(Assented to June 3, 2025)

TABLE OF CONTENTS

PART 1

INTERPRETATION AND FUNDAMENTAL PRINCIPLES

Definitions	1	
Fundamental principles	2	(1)
Convention on the Rights of the Child		(2)

PART 2

LICENSED CHILD CARE CENTRES

Non-application – child care centres not requiring a licence	3	
Requirement for licence	4	(1)
More than one licence		(2)
Licence not transferrable		(3)
Effect of suspension or revocation of licence		(4)
Requirement for amendment		(5)
Requirement on permanent closure		(6)

Licensing process

Application for licence	5	(1)
Issuance of licence		(2)
Refusal – information provided in application		(3)
Licence requirements		(4)
Validity of licence		(5)
Provisional licence requirements		(6)
Validity of provisional licence		(7)
Conversion of provisional licence		(8)
Licence contents		(9)
Licence refusal notice		(10)
Routine in-person inspections and renewal of licence	6	(1)
Notice of non-renewal		(2)
Licence amendments	7	
Non-compliance warning	8	
Licence suspensions	9	(1)
Licence suspensions – inability to inspect		(2)
Suspension notice		(3)
Review by Director		(4)

Application for reinstatement	(5)
Verification of information	(6)
Inspections	(7)
Reinstatement	(8)
Notice of non-reinstatement	(9)
Licence revocation	10 (1)
Revocation notice	(2)

Appeal of licensing and funding decisions

Appeal to Appeal Board	11 (1)
Delegate's decision must be reviewed first	(2)
Appeal to Appeal Board – inaction	(3)
Reasons and remedy sought	(4)
Power to gather information	(5)
Natural justice	(6)
Rules of evidence	(7)
Decision following appeal	(8)
Notice of decision	(9)
Implementation	(10)
Decision final	(11)
Publication of decision	(12)

Requirements for licensed child care centres

Learning programs and services	12
Employee requirements	13 (1)
Tuberculosis testing proof	(2)
Results not required	(3)
Criminal record checks	(4)
Residents of home-based child care centres	(5)
Indication on criminal record check	(6)
Obligation to report criminal charge or conviction	(7)
Knowledge of criminal charge or conviction	(8)
Verification by Director	(9)
Visitors prohibited at home-based child care centres	(10)
Overnight visitors	(11)
Parental involvement	14 (1)
Access to child	(2)
Access to records	(3)
Developmental needs and interests of the child	15
Policies and procedures	16 (1)
Inquiry into policies and procedures	(2)
Submission to Director	(3)
Reports by former operator	(4)
Records	(5)

Posting requirements	(6)
Licence conditions	17

PART 3 UNLICENSED CHILD CARE CENTRES

Application	18
Compliance with regulations	19
Reporting on operations	20 (1)
Report by former operator	(2)

PART 4 INSPECTIONS, SEARCHES AND INJUNCTIONS

Powers of peace officers	21
Right to enter and inspect	22 (1)
Requirement for consent or warrant	(2)
Show identification	(3)
Inspection powers	(4)
Assistance	(5)

Searches

Searches	23
----------	----

Additional Powers

Operation of equipment	24 (1)
Obstruction	(2)
Warrant	(3)

Seizures

Seizures during inspections	25 (1)
Seizures during searches	(2)
Originals	(3)

Disposition of things seized

Receipt for records or things seized	26 (1)
Examination of record or thing seized	(2)
Right to reclaim thing seized	(3)
Unclaimed records and things	(4)
Custody and disposition of things seized	(5)
Application for disposition	27 (1)
Affidavit	(2)

Disposition	(3)
Limitation on powers	
Information, records or data	28
Warrants	
Inspection warrant	29 (1)
Powers under inspection warrant	(2)
Search warrant	(3)
Powers under search warrant	(4)
Application without notice	(5)
Time of execution	30 (1)
Expiration and extension	(2)
Use of force	(3)
Call for assistance	(4)
Providing assistance	(5)
Identification	(6)
Telewarrants	
Telewarrants	31 (1)
Authority of telewarrant	(2)
Same	(3)
Injunction	
Application for injunction	32 (1)
Application for injunction	(2)
Assistance	
Request for assistance	33 (1)
Powers and protections	(2)
Oaths and affirmations	
Power to administer oaths and affirmations	34

PART 5
EARLY LEARNING AND CHILD CARE SECTOR DEVELOPMENT

Minister's duties

Development of learning programs, services, policies and procedures	35	(1)
Resources		(2)
Publication		(3)
Training		(4)
Inuit Language promotion	36	
Child care space creation	37	

Early Learning and Child Care Council

Council	38	(1)
Composition		(2)
Chairperson		(3)
Nominations by Inuit organizations		(4)
Appointment following nomination		(5)
Revocation of appointment		(6)
Functions	39	(1)
Consensus		(2)
Meetings		(3)
Personal information		(4)
Funding	40	(1)
Employees not public servants		(2)
Honoraria		(3)

PART 6
ADMINISTRATION

Director of Early Learning and Child Care

Appointment of Director	41	(1)
Power to delegate		(2)
Reference to Director is reference to delegate		(3)
Direction of Minister		(4)
Reviewing decisions of a delegate	42	(1)
Process		(2)
Extrinsic evidence		(3)
Review of decision		(4)
Copy to applicant		(5)
Registry of licensed child care centres	43	(1)
Publication		(2)

Variations and exemptions

Variations by Director	44	(1)
Exceptions		(2)
Issuing a variation		(3)
Notice of variation		(4)
Publication		(5)
Conditions	45	(1)
Effect of compliance		(2)
Other requirements still apply		(3)
Cancellation of variation or exemption	46	(1)
Service of notice		(2)
Exemption for Director	47	(1)
Exception		(2)
Publication		(3)
Parts 3 to 5 of the <i>Legislation Act</i>	48	

Establishment of Appeal Board

Appeal Board	49	(1)
Composition		(2)
Chairperson		(3)
Nominations by Nunavut Tunngavik Incorporated		(4)
Appointment following nomination		(5)
Refusal by Minister		(6)
Temporary members		(7)
Term – temporary appointees		(8)
Functions – temporary appointees		(9)
Solicitation of nominations on expiry		(10)
Expenses and honoraria		(11)
Confidentiality		(12)

Immunity

Immunity	50
----------	----

Annual report

Annual report	51	(1)
Tabling		(2)

Information-sharing Agreements

Information-sharing Agreements	52	(1)
Content of agreement		(2)

PART 7
OFFENCES AND PENALTIES

False advertising	53	(1)
False or misleading information		(2)
Offence	54	(1)
Penalties		(2)
Limitation period for continuing offence	55	
Liability of corporate officers	56	(1)
Employees or agents		(2)
Additional fine	57	

PART 8
REGULATIONS

Regulations	58
-------------	----

PART 9
FINAL PROVISIONS

Transitional

Definition	59	(1)
Transition – licences		(2)
Extending expiry		(3)
Transition – pending appeals		(4)
Transition – employee records		(5)
Transition – home child care centre		(6)

Consequential amendments

<i>Cannabis Act</i>	60
<i>Education Act</i>	61
<i>Inuit Language Protection Act</i>	62
<i>Public Health Act</i>	63
<i>Representative for Children and Youth Act</i>	64
<i>Tobacco and Smoking Act</i>	65
Repeal	66
Coming into force	67

EARLY LEARNING AND CHILD CARE ACT

The Commissioner, by and with the advice and consent of the Legislative Assembly, enacts as follows:

PART 1 INTERPRETATION AND FUNDAMENTAL PRINCIPLES

Definitions

1. In this Act,

"Appeal Board" means the Early Learning and Child Care Licensing Appeal Board established under section 49; (*Commission d'appel*)

"child" means an individual who is

- (a) under the age of 12 years, or
- (b) under the age of 16 years and deemed to be a child for the purposes of this Act in accordance with a process established in the regulations; (*enfant*)

"child care centre" means an establishment or other place where care, instruction or supervision is provided to children, except care, instruction and supervision provided

- (a) by individuals who reside in the same home as the children,
- (b) by any individual when an individual who resides in the same home as the children is present on the same premises and is immediately accessible to attend to the needs of the child at all times,
- (c) at schools while delivering
 - (i) the education program as defined in the *Education Act*, or
 - (ii) other programs, activities and services provided for under the *Education Act*, other than section 17 of that Act,
- (d) at hospitals and other health facilities while providing health services to children,
- (e) at child care facilities and foster homes approved under section 62 of the *Child and Family Services Act*, or
- (f) as part of child care arrangements
 - (i) for less than six consecutive weeks, or
 - (ii) of no more than two days per week; (*centre de garde*)

"Council" means the Early Learning and Child Care Council established under section 38; (*Conseil*)

"Director" means the Director of Early Learning and Child Care appointed under section 41; (*directeur*)

"employee" means any person providing care, instruction or supervision to children at a child care centre or otherwise working at a child care centre, whether or not there is a formal employment relationship; (*employé*)

"learning program" means a program of developmentally appropriate learning experiences for children that supports their social, emotional, physical, cognitive and linguistic development; (*programme d'apprentissage*)

"licence" means

- (a) a licence issued under section 5 or renewed under section 6, or
- (b) except in section 5 or 6, a provisional licence issued under section 5; (*permis*)

"licence conditions" means the licence conditions under section 17; (*conditions du permis*)

"operator" means the person who operates a child care centre; (*exploitant*)

"recreational day camp" means a place where care, instruction or supervision is provided

- (a) to children who are old enough to be entitled to attend school under the *Education Act*,
- (b) during weeks when the schools that the children attend, or are entitled to attend, are not open,
- (c) for more than two days per week, and
- (d) for not more than 10 consecutive weeks; (*centre de loisirs*)

"serve" means serve in accordance with the regulations; (*signifier*)

"working day" means any day other than the following:

- (a) Saturday and Sunday,
- (b) holidays under the *Public Service Act*,
- (c) a day on which the offices of the Government of Nunavut in the community of the decision maker are closed due to inclement weather, a disaster or other similar circumstance. (*jour ouvrable*)

Fundamental principles

2. (1) This Act and the regulations must be interpreted, administered and applied in accordance with the following fundamental principles:

- (a) Inuit societal values must be promoted in all aspects of the early learning and child care sector;
- (b) Inuit societal values must be applied in child care centres on an ongoing basis;
- (c) child care must be reflective of and rooted in the principle of *Inunnguiniq* (making of a whole human being), which is the foundation of Inuit child rearing;
- (d) inclusion and diversity, applied in a manner that is reflective of Nunavut's majority Inuit population, the Inuit Language and the purposes of the

- Human Rights Act*, are fundamental to ensuring that the early learning and child care sector is strong and supportive;
- (e) child care centres are important venues for language learning, in particular learning the Inuit Language;
 - (f) Inuit Language rights, and the related obligations, as affirmed and set out in the *Inuit Language Protection Act*, must be respected and promoted throughout the early learning and child care sector;
 - (g) the creation of new child care spaces is critical for supporting child development, and more generally, the economic development of the territory.

Convention on the Rights of the Child

(2) This Act and the regulations must be interpreted, administered and applied in accordance with the United Nations Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on November 20, 1989 and ratified by Canada on December 13, 1991.

PART 2 LICENSED CHILD CARE CENTRES

Non-application – child care centres not requiring a licence

3. This Part does not apply to
- (a) individuals providing child care services at a home to no more than four children, including any children residing in the home; or
 - (b) recreational day camps.

Requirement for licence

4. (1) A person must not operate a child care centre
- (a) without a licence; or
 - (b) with a licence that has been suspended.

More than one licence

(2) An operator who has more than one child care centre must have a separate licence for each child care centre.

Licence not transferrable

(3) A licence is not transferrable to a new operator of a child care centre or to any other person.

Effect of suspension or revocation of licence

(4) For greater certainty, an operator must immediately close a child care centre when the child care centre's licence is suspended or revoked.

Requirement for amendment

(5) An operator must not, unless authorized by an amendment to the licence for the child care centre,

- (a) change the location of the child care centre;
- (b) renovate or make alterations to the child care centre; or
- (c) increase or decrease the number of child care spaces available at the child care centre.

Requirement on permanent closure

- (6) An operator must
 - (a) notify the Director in accordance with the regulations if they intend to permanently close a child care centre; and
 - (b) return their licence to the Director on permanently closing a child care centre.

Licensing process

Application for licence

5. (1) A person may apply for a licence to operate a child care centre by submitting an application to the Director containing the information and documents prescribed by regulation.

Issuance of licence

- (2) Within 20 working days after receiving an application containing the information and documents prescribed by regulation, the Director must
 - (a) issue the licence if the requirements of subsection (4) have been met;
 - (b) issue a provisional licence if the requirements of subsection (6) have been met; or
 - (c) refuse to issue the licence, if the requirements of neither subsection (4) nor subsection (6) have been met.

Refusal – information provided in application

(3) Despite subsection (2), the Director may refuse to issue a licence to an applicant if the Director is satisfied that the applicant provided incomplete, false, misleading or inaccurate information in support of the application.

Licence requirements

- (4) The requirements for the issuance of a licence are the following:
 - (a) the application contains the information and documents prescribed by regulation;
 - (b) the Director has conducted an in-person inspection of the child care centre in accordance with the regulations;
 - (c) the Director is satisfied, on the basis of the information, documents and in-person inspection, that the child care centre meets
 - (i) the requirements of this Act and the regulations, and
 - (ii) the licence conditions.

Validity of licence

- (5) A licence is valid for two years from the date of issuance.

Provisional licence requirements

- (6) The requirements for the issuance of a provisional licence are the following:
- (a) the application contains the information and documents prescribed by regulation;
 - (b) the Director has reviewed space measurements and photographs or video of the child care centre in accordance with the regulations;
 - (c) the Director is satisfied, on the basis of the information, documents and review of photographs and video, that the child care centre meets
 - (i) the requirements of this Act and the regulations, and
 - (ii) the licence conditions.

Validity of provisional licence

(7) A provisional licence is valid for a non-renewable period of three months from the date of issuance.

Conversion of provisional licence

- (8) The Director must convert a provisional licence into a licence if the Director
- (a) has conducted an in-person inspection of the child care centre in accordance with the regulations; and
 - (b) is satisfied, on the basis of the in-person inspection, that the child care centre meets
 - (i) the requirements of this Act and the regulations, and
 - (ii) the licence conditions.

Licence contents

- (9) A licence and provisional licence must indicate
- (a) the name of the operator of the child care centre;
 - (b) the location of the child care centre;
 - (c) the number of licensed child care spaces;
 - (d) the date of issue and the date of expiry; and
 - (e) additional information prescribed by regulation.

Licence refusal notice

(10) If the Director refuses to issue a licence, the Director must serve a notice containing the following information on the applicant:

- (a) the reasons for the refusal;
- (b) information on how to appeal the refusal to the Appeal Board.

Routine in-person inspections and renewal of licence

6. (1) The Director must conduct an in-person inspection of each child care centre in accordance with the regulations at least once every 12 months and

- (a) renew the licence of a child care centre that is expiring if
 - (i) the Director has conducted an in-person inspection of the child care centre in accordance with the regulations during the 12 months preceding the expiration of the licence, and

- (ii) the Director is satisfied, on the basis of the in-person inspection, that the child care centre continues to meet
 - (A) the requirements of this Act and the regulations, and
 - (B) the licence conditions;
- (b) if the requirements for the issuance of a provisional licence under subsection 5(6) are met, issue a provisional licence for the child care centre under section 5; or
- (c) serve a notice of non-renewal on the operator if the conditions for renewal under paragraph (a) have not been met.

Notice of non-renewal

- (2) A notice of non-renewal must contain
 - (a) the reasons for the non-renewal; and
 - (b) information on how to appeal the refusal to the Appeal Board.

Licence amendments

7. An operator may apply to the Director to amend a licence by submitting an application containing the information and documents prescribed by regulation with respect to the amendment.

Non-compliance warning

8. If the Director has grounds to believe that an operator is not in compliance with this Act, the regulations or a licence condition, the Director may serve a written warning to the operator indicating

- (a) the reasons for the warning;
- (b) the actions that the operator must take with respect to the non-compliance;
- (c) the deadline for taking those actions; and
- (d) information on how to appeal the warning to the Appeal Board.

Licence suspensions

9. (1) The Director may suspend the licence of a child care centre if the Director has reasonable grounds to believe that

- (a) the health, safety or well-being of a child at the child care centre is being endangered;
- (b) the operator has been served a warning under section 8 and has not taken the actions required by the warning before the deadline indicated in the warning; or
- (c) the operator is not in compliance with this this Act, the regulations or a licence condition, and
 - (i) the non-compliance is so serious that it is not appropriate to only provide a warning, or
 - (ii) the non-compliance is of a type in respect of which more than one warning has previously been given to the operator.

Licence suspensions – inability to inspect

- (2) The Director must suspend the licence of a child care centre if
- (a) in the case of a child care centre operating in a dwelling, the occupant of the dwelling does not consent to an inspection during the operating hours of the child care centre; or
 - (b) in any other case, the operator or the employees of the child care centre prevent the Director from carrying out an inspection.

Suspension notice

(3) When suspending the licence of a child care centre, the Director must serve a notice containing the following information on the operator of the child care centre:

- (a) the reasons for the suspension;
- (b) the actions that the operator must take before their licence can be reinstated;
- (c) if applicable, the deadline for taking those actions;
- (d) information on how to apply for licence reinstatement;
- (e) information on how to appeal the suspension to the Appeal Board.

Review by Director

- (4) If a licence is suspended under this section by a delegate of the Director,
- (a) the suspension is only valid until the end of the third working day after the date of the suspension;
 - (b) the delegate must immediately inform the Director of the suspension and the reasons for it; and
 - (c) the Director may, after reviewing the reasons for the suspension, extend the suspension if it conforms with the requirements of this section.

Application for reinstatement

(5) An operator may apply to the Director for the reinstatement of a licence suspended under subsection (1) if

- (a) they have taken the actions listed in their notice of suspension; or
- (b) they have taken other actions to deal with the reasons for the suspension.

Verification of information

- (6) Following an application under subsection (5), the Director must determine whether
- (a) the operator has taken all the actions listed in their notice of suspension; or
 - (b) the operator has taken other actions that, in the opinion of the Director, are sufficient to deal with the reasons for the suspension.

Inspections

(7) For greater certainty, the Director may conduct an inspection for the purpose of making a determination under subsection (6).

Reinstatement

- (8) The Director must reinstate a suspended licence if
- (a) the Director has determined that the operator has taken all the actions listed in their notice of suspension;
 - (b) the Director has determined that the operator has taken other actions that, in the opinion of the Director, are sufficient to address the reasons for the suspension; or
 - (c) in the case of a suspension under subsection (2), the Director has
 - (i) been able to complete the inspection, and
 - (ii) the Director has not also suspended the licence under subsection (1).

Notice of non-reinstatement

(9) If, following an application for reinstatement of a suspended licence under subsection (5), the Director does not reinstate the licence, the Director must serve a notice containing the following information on the operator of the child care centre:

- (a) the reasons for not reinstating the licence;
- (b) a statement that the operator may reapply for reinstatement once they have addressed those reasons; and
- (c) information on how to appeal the continued suspension to the Appeal Board.

Licence revocation

- 10.** (1) The Director may revoke the licence of a child care centre if
- (a) the operator of the child care centre fails to address the reasons for a licence suspension under subsection 9(1) before the deadline indicated in the notice of suspension;
 - (b) the licence has been previously suspended under subsection 9(1) and new child endangerment or non-compliance with this Act is, whether alone or in combination with previous suspensions, so serious that it is not appropriate to only suspend the licence;
 - (c) the operator has been convicted of an offence under this Act and the offence is so serious that it is not appropriate to only suspend the licence; or
 - (d) the licence has been suspended under subsection 9(2) more than twice within a 24-month period.

Revocation notice

(2) When revoking the licence of a child care centre, the Director must serve a notice containing the following information on the operator of the child care centre:

- (a) the reasons for the revocation;
- (b) information on how to appeal the revocation to the Appeal Board;
- (c) a statement that the licence can only be reinstated through a successful appeal to the Appeal Board;
- (d) a statement that the operator may apply for a new licence in accordance with section 5.

Appeal of licensing and funding decisions

Appeal to Appeal Board

11. (1) Subject to subsection (2), an applicant or operator may appeal the following decisions to the Appeal Board within 30 days after being served a notice of the decision:

- (a) a warning;
- (b) a refusal to issue a licence;
- (c) non-renewal of a licence;
- (d) a licence suspension;
- (e) non-reinstatement of a licence;
- (f) revocation of a licence;
- (g) a refusal to provide funding under a funding program established under the regulations;
- (h) a suspension or termination of funding under a funding program established under the regulations.

Delegate's decision must be reviewed first

(2) A decision of a delegate of the Director is not subject to appeal under this section, but a decision of the Director following a review under section 42 is subject to appeal under this section.

Appeal to Appeal Board – inaction

- (3) An applicant or operator may appeal the failure of the Director
- (a) to respond to an application for a licence if more than 30 days have passed since the Director received the application containing the information and documents prescribed by regulation;
 - (b) to renew a licence in accordance with section 6; or
 - (c) to respond to an application for funding under a funding program established under the regulations, if more that the number of days prescribed by regulation have passed since the Director received the application containing the information and documents prescribed by regulation.

Reasons and remedy sought

- (4) An appeal under subsection (1) or (3) must
- (a) be sent to the chairperson of the Appeal Board; and
 - (b) set out clearly the reasons for the request and the remedy sought.

Power to gather information

(5) The Appeal Board may, in its proceedings, require an appellant and the Director to provide such documents and other information as are necessary to dispose of the appeal.

Natural justice

(6) For greater certainty, an Appeal Board must conduct an appeal in accordance with the rules of natural justice.

Rules of evidence

(7) An appeal before the Appeal Board is not subject to the rules of evidence applicable to judicial proceedings.

Decision following appeal

(8) Within 15 days after an appeal being made under subsection (1) or (3), the Appeal Board must

- (a) deny the appeal and confirm the decision of the Director; or
- (b) confirm the appeal in full or in part, and as a consequence make any decision the Director could have made.

Notice of decision

(9) The chairperson of the Appeal Board must forward copies of its decision under subsection (8) to the appellant and the Director.

Implementation

(10) The Director must implement a decision made by the Appeal Board under paragraph (8)(b) as if it were a decision of the Director.

Decision final

(11) Subject to judicial review, a decision of the Appeal Board is final.

Publication of decision

(12) The chairperson of the Appeal Board must ensure that the decision and the reasons for it are posted on an Internet website maintained by or for the Appeal Board.

Requirements for licensed child care centres

Learning programs and services

12. An operator must provide the learning programs and services prescribed by regulation.

Employee requirements

13. (1) An operator must ensure that all employees of the child care centre meet the qualifications and other requirements prescribed by regulation.

Tuberculosis testing proof

(2) Within the first three months of employment of an employee of the child care centre, the operator must collect proof prescribed by regulation that they have undergone tuberculosis testing.

Results not required

(3) For greater certainty, proof under subsection (2) does not include the results of the tuberculosis testing.

Criminal record checks

(4) An operator must collect a criminal record check, including a vulnerable sector check, from each employee of the child care centre

- (a) prior to their first day of employment; and
- (b) at least every two years.

Residents of home-based child care centres

(5) The operator of a child care centre operated in a home must collect a criminal record check, including a vulnerable sector check, from each adult residing in the home

- (a) prior to commencing operations of the child care centre;
- (b) prior to the adult taking up residence in the home; and
- (c) at least every two years.

Indication on criminal record check

(6) If a criminal record check, including a vulnerable sector check, collected under this section indicates the existence of any record, other than one the Director has verified as non-concerning under subsection (9), the operator must

- (a) submit a copy of the criminal record check, including the vulnerable sector check, to the Director;
- (b) in the case of an employee, not allow the employee or prospective employee to be present at the child care centre until the Director has verified the charge or conviction as non-concerning under subsection (9); and
- (c) in the case of an adult residing in the home where a child care centre is operated, not operate the child care centre until the Director has verified the charge or conviction as non-concerning under subsection (9).

Obligation to report criminal charge or conviction

(7) The following must immediately notify the operator of a child care centre when they are charged or convicted of a criminal offence:

- (a) an employee of the child care centre;
- (b) if the child care centre is operated in a home, an adult residing in the home.

Knowledge of criminal charge or conviction

(8) If an operator is aware that an employee of their child care centre, or an adult residing in the home where their child care centre is operated, is subject to a criminal charge or conviction that has not already been disclosed to the Director, the operator must,

- (a) submit the details of the charge or conviction to the Director;
- (b) in the case of an employee, not allow the employee or prospective employee to be present at the child care centre until the Director has verified the charge or conviction as non-concerning under subsection (9); and
- (c) in the case of an adult residing in the home where a child care centre is operated, not operate the child care centre until the Director has verified the charge or conviction as non-concerning under subsection (9).

Verification by Director

(9) Within five working days of receiving a submission under subsection (6) or (8), the Director must either

- (a) verify to the operator, in writing, that the record, charge or conviction is non-concerning as it does not, in the opinion of the Director, pose a risk with respect to
 - (i) the health, safety or well-being of a child at the child care centre, or
 - (ii) the child care centre continuing to be operated in accordance with this Act, the regulations or the licence conditions; or
- (b) notify the operator, in writing, that the Director is unable to make a verification under paragraph (a).

Visitors prohibited at home-based child care centres

(10) The operator of a child care centre operated in a home must not permit an adult other than an adult residing in the home to be present in the home during the operating hours of the child care centre, except

- (a) an employee who is present while the operator is present;
- (b) an individual providing cultural or language programming to the children while the operator is providing care, instruction or supervision to children;
- (c) the Director; or
- (d) another public officer that the operator is, by law, required to admit into the home.

Overnight visitors

(11) For the purposes of subsections (5) and (10), an overnight visitor, or another adult temporarily residing in a home, is deemed to not be residing in the home if they are not present in the home at any time during the operating hours of the child care centre.

Parental involvement

14. (1) An operator must provide for parental involvement in the operation or management of the child care centre to the extent required by the regulations.

Access to child

(2) An operator must ensure that the following have access to a child at any time and may remove a child from the child care centre at any time:

- (a) a person who has lawful custody of the child;
- (b) a person who is, under an order made under the *Divorce Act* (Canada), exercising parenting time with respect to the child.

Access to records

(3) An operator must ensure that the following have access to the records of a child at the child care centre in accordance with the regulations:

- (a) a person who has lawful custody of the child;

- (b) a person who has, under an order made under the *Divorce Act* (Canada), decision-making responsibility with respect to the health or education of the child.

Developmental needs and interests of the child

15. An operator must ensure that the learning environment, programming and operations of their child care centre respond to the developmental needs and interests of each child attending the child care centre, including the needs and interests expressed by the child.

Policies and procedures

16. (1) An operator must develop and maintain written policies and procedures in accordance with the regulations.

Inquiry into policies and procedures

- (2) The Director may, in accordance with the regulations,
 - (a) inquire into whether an operator is complying with its written policies and procedures referred to in subsection (1);
 - (b) make recommendations with respect to remedying any compliance issues identified during the inquiry; and
 - (c) publish those recommendation.

Submission to Director

(3) An operator must submit the following to the Director in accordance with the regulations:

- (a) the written policies and procedures referred to in subsection (1);
- (b) returns and report prescribed by regulation.

Reports by former operator

(4) A person who is no longer an operator must submit all returns and reports prescribed by regulation for the period that they were an operator.

Records

- (5) An operator must
 - (a) maintain a record of criminal record checks, including vulnerable sector checks, collected under subsection 13(4) and (5) in accordance with the regulations;
 - (b) maintain a record of each proof of tuberculosis testing collected under subsection 13(3) in accordance with the regulations; and
 - (c) maintain other records in accordance with the regulations.

Posting requirements

(6) An operator must post the following in a conspicuous place at the child care centre that is accessible to employees and parents:

- (a) the licence for the child care centre;
- (b) notices of variations or exemptions for the child care centre;

- (c) notices of cancellation of variations or exemptions for the child care centre;
- (d) notices of suspension or revocation for the child care centre.

Licence conditions

- 17.** It is a condition of every licence that the child care centre is operated in accordance with
- (a) the *Human Rights Act*;
 - (b) the *Public Health Act* and its regulations;
 - (c) the *Fire Safety Act* and its regulations;
 - (d) the *Building Code Act* and its regulations; and
 - (e) any conditions prescribed by regulation.

PART 3
UNLICENSED CHILD CARE CENTRES

Application

- 18.** This Part applies to
- (a) individuals providing child care services at a home to no more than four children, including any children residing in the home; and
 - (b) recreational day camps.

Compliance with regulations

- 19.** An operator must comply with all the regulations applicable to child care centres that are authorized to operate without a licence.

Reporting on operations

- 20.** (1) An operator must submit a report to the Director in accordance with the regulations indicating the type of care, instruction or supervision they are or will be providing to children and the place that it is or will be provided
- (a) prior to commencing operations; and
 - (b) when required by the regulations.

Report by former operator

- (2) A person who ceases operating a child care centre must submit a report to the Director in accordance with the regulations indicating that the person is no longer operating a child care centre.

PART 4
INSPECTIONS, SEARCHES AND INJUNCTIONS

Powers of peace officers

- 21.** The Director has all the powers of a peace officer when performing the Director's functions under this Part.

Right to enter and inspect

22. (1) For the purpose of ensuring compliance with any provision of this Act or the regulations or the licence conditions, the Director may, at any reasonable time and in accordance with subsection (2), enter and inspect,

- (a) any child care centre, including any place that the Director has reason to believe is a child care centre; and
- (b) a place where the Director has reason to believe that records of a child care centre, or other records relating to the administration or enforcement of this Act, are kept.

Requirement for consent or warrant

(2) The Director may enter and inspect a child care centre or other place under this Part

- (a) in the case of a dwelling, only if
 - (i) the occupant or person in charge of the dwelling consents, or
 - (ii) the inspection is authorized by a warrant; or
- (b) in any other case, without a warrant or consent.

Show identification

(3) The Director must, on request, show the Director's official identification to the occupant or person in charge of the place the Director is entering and inspecting under this Act.

Inspection powers

(4) During an inspection of a place referred to in subsection (1), the Director may, for the purpose of ensuring compliance with any provision of this Act or the regulations or a licence condition

- (a) open or cause to be opened any container whose contents may be relevant for the purpose of ensuring compliance;
- (b) inspect any thing;
- (c) make audio, photo or video recordings of the place or any thing;
- (d) require any person to produce any record or data for inspection in whole or in part; and
- (e) in accordance with section 25, seize any record, or a thing the Director reasonably believes contains a record, that may provide evidence for the purpose of ensuring compliance.

Assistance

(5) The owner or the person in charge of a thing or place being inspected under this Act, and every person found in the place, must

- (a) give the Director all reasonable assistance to enable them to perform the Director's functions; and
- (b) provide the Director with any information in relation to the administration of this Act that the Director may reasonably require.

Searches

Searches

23. If the Director believes, on reasonable grounds, that an offence under this Act has been committed, the Director may enter any place and search any thing or place for the purpose of obtaining evidence in relation to that offence under this Act if

- (a) the owner or person in possession of the thing or the occupant or person in charge of the place, as the case may be, consents;
- (b) the search is authorized by a warrant; or
- (c) with respect to a place that is not a dwelling, the Director has reasonable grounds to believe that distance, urgency, the likelihood of the removal or destruction of the evidence and other relevant factors do not reasonably permit the obtaining of a warrant or consent.

Additional Powers

Operation of equipment

- 24.** (1) In carrying out an inspection or search under this Act, the Director may
- (a) use or cause to be used any computer system and examine any data contained in or available to the computer system;
 - (b) reproduce or cause to be reproduced any record or data;
 - (c) print or export any record or data for examination or copying; and
 - (d) use or cause to be used any copying equipment at the place to make copies of the record or data.

Obstruction

(2) While the Director is performing the Director's functions under this Part, a person must not

- (a) knowingly make any false or misleading statement, either orally or in writing, to the Director; or
- (b) otherwise obstruct or hinder the Director, other than by refusing entry to a place where the Director requires a warrant to enter the place.

Warrant

(3) For greater certainty, nothing in this section allows for an entry, search or seizure without a warrant when a warrant is otherwise required by this Part.

Seizures

Seizures during inspections

25. (1) If, during the course of an inspection, the Director has reasonable grounds to believe that a record, or a thing the Director reasonably believes contains a record, may provide evidence for the purpose of ensuring compliance with any provision of this Act or the regulations or a licence condition, the Director may seize, detain and carry away the record or thing if the seizure is authorized by a warrant.

Seizures during searches

(2) If, during the course of a search, the Director has reasonable grounds to believe that a record, or a thing the Director reasonably believes contains a record, is evidence in relation to an offence under this Act, the Director may seize, detain and carry away the record or thing if

- (a) the seizure is authorized by a warrant; or
- (b) distance, urgency, the likelihood of the removal or destruction of the thing as evidence or other relevant factors do not reasonably permit the obtaining of a warrant.

Originals

(3) Despite subsections (1) and (2), the Director may only seize the original of a record, or a thing the Director reasonably believes contains a record, if

- (a) the Director is unable to make a reproduction or other copy of the record; or
- (b) a reproduction or other copy of the record would be insufficient for the purpose for which the Director requires the record.

Disposition of things seized

Receipt for records or things seized

26. (1) If the Director seizes a record or thing under this Act, the Director must issue a receipt describing the record or thing seized to the person from whom it was seized.

Examination of record or thing seized

(2) The Director may have a record or thing seized under this Act examined.

Right to reclaim thing seized

- (3) If a record or thing seized under this Act is no longer needed as evidence,
- (a) the Director must serve a notice on the owner or other person from whom it was seized notifying them of their right to reclaim the record or thing; and
 - (b) the owner or the person from whom it was seized may reclaim it.

Unclaimed records and things

(4) If the owner or the person from whom the record or thing was seized under this Act does not reclaim it within 14 days after being notified under subsection (3), the Director may destroy or otherwise dispose of it.

Custody and disposition of things seized

(5) Subject to subsections (2) to (4), the Director must ensure that proper custody of a record or thing seized under this Act is maintained pending disposition under section 27.

Application for disposition

27. (1) The Director must, as soon as practicable, bring the seizure of a record or thing under this Act before a justice or judge, unless the record or thing was destroyed, disposed of, reclaimed or unclaimed under section 26.

Affidavit

- (2) The Director must provide the justice or judge with an affidavit stating
- (a) the Director's grounds for believing that the record or thing seized
 - (i) may provide evidence for the purpose of ensuring compliance with
 - (A) any provision of this Act or the regulations, or
 - (B) a licence condition, or
 - (ii) may provide evidence of an offence under this Act;
 - (b) the name of the person, if any, having physical possession of the record or thing at the time it was seized; and
 - (c) where the record or thing is and how it was dealt with.

Disposition

- (3) A justice or judge may make the following orders in respect of a record or thing seized under this Act:
- (a) order the record or thing delivered to the owner or person entitled to it;
 - (b) order the record or thing to be held as evidence in a proceeding relating to the record or thing;
 - (c) order the record or thing to be destroyed or otherwise disposed of safely under the direction of the Director;
 - (d) order that the record or thing be forfeited to the Government of Nunavut;
 - (e) order the Government of Nunavut to provide fair compensation to the owner of the record or thing or the person entitled to it.

Limitation on powers

Information, records or data

28. The powers under sections 22 to 25 and subsection 26(2) may not be used with respect to information, records or data except to the extent that doing so is

- (a) necessary for the purposes of an inspection, search or seizure; or
- (b) authorized by a warrant.

Warrants

Inspection warrant

29. (1) A justice or judge may issue a warrant authorizing a person named in the warrant to enter in or on a place and exercise any of the powers referred to in subsection (2), if the justice or judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that

- (a) there is likely to be found or obtained there evidence that is required for the purpose of ensuring compliance with any
 - (i) provision of this Act or the regulations, or
 - (ii) licence condition; and
- (b) the occupant or person in charge of the place or thing does not or will not consent or that the evidence may be lost if an attempt at obtaining consent is made.

Powers under inspection warrant

(2) A warrant issued under subsection (1) may authorize the person named in the warrant to do any or all of the following:

- (a) inspect the place;
- (b) seize any evidence referred to paragraph (1)(a);
- (c) perform or cause to be performed any relevant test;
- (d) require that any machinery, equipment or device be operated, used, stopped or set in motion;
- (e) question a person on any relevant matter;
- (f) demand the production of any thing or record;
- (g) require any person present in the place to give all reasonable assistance to the person named in the warrant to enable them to exercise powers and perform duties under this Act or the regulations.

Search warrant

(3) A justice or judge may issue a warrant authorizing a person named in the warrant to enter in or on a place and exercise any of the powers referred to in subsection (4), if the justice or judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that

- (a) there is likely to be found or obtained there evidence of an offence under this Act; and
- (b) the occupant or person in charge of the place or thing does not or will not consent or that the evidence may be lost if an attempt at obtaining consent is made.

Powers under search warrant

(4) A warrant issued under subsection (3) may authorize the person or persons named in the warrant to do any or all of the following:

- (a) search the place;
- (b) seize any evidence referred to paragraph (3)(a);
- (c) perform or cause to be performed any relevant test;
- (d) require that any machinery, equipment or device be stopped;
- (e) demand the production of any thing or record;
- (f) require that a person named or specified in the warrant provide assistance specified in the warrant and required to give effect to the warrant.

Application without notice

(5) A warrant under this section may be issued, with conditions, on an application made without notice and in the absence of the owner or occupier of the place.

Time of execution

30. (1) A warrant must be executed at a reasonable time, or as specified in the warrant.

Expiration and extension

(2) A warrant must state the date on which it expires, and a justice or judge may extend the date on which the warrant expires for such additional periods as the justice or judge considers necessary.

Use of force

(3) A person named in a warrant may use such force as is reasonable and necessary to make the entry and exercise any power specified in the warrant.

Call for assistance

(4) A person named in a warrant may call on any other person they consider necessary to execute the warrant.

Providing assistance

(5) A person called upon under subsection (4) may provide a person named in the warrant any assistance that is necessary to execute the warrant.

Identification

(6) On the request of an owner or occupant of the place, a person executing a warrant must identify themselves, provide a copy of the warrant and explain the purpose of the warrant.

Telewarrants

Telewarrants

31. (1) If the Director believes that an offence under this Act has been committed and that it would be impracticable to appear personally before a justice or judge to apply for a warrant, the Director may submit an information on oath or affirmation to a justice or a judge by telephone or other means of telecommunication.

Authority of telewarrant

(2) A justice or judge referred to in subsection (1) may issue a warrant conferring the same authority respecting a search or seizure as may be conferred by a warrant issued by a justice or a judge before whom the Director appears personally under this Act, and section 487.1 of the *Criminal Code* applies with such modifications as the circumstances require.

Same

(3) A warrant as provided for in this section is sufficient authority to the Director and to any other named person to execute the warrant and to deal with records and things seized in accordance with this Act or as otherwise provided by law.

Injunction

Application for injunction

32. (1) If the Director, after conducting an inspection or search under this Part, is of the opinion that a place is being used as a child care centre in contravention of section 4 or 19, the Director may apply to the Nunavut Court of Justice in accordance with the Rules of the Nunavut

Court of Justice for an order enjoining the operator of the child care centre and the owner or person in charge of the premises from acting in contravention of this Act.

Injunction

(2) The Nunavut Court of Justice, on application by the Director under subsection (1), may make an order enjoining any person from acting in contravention of this Act, whether or not any punishment has been imposed for the contravention and, on application by any person, may vary or discharge the order.

Assistance

Request for assistance

33. (1) The Director may request the assistance of the following persons in enforcing this Act or the regulations and give them instructions for that purpose:

- (a) a peace officer;
- (b) a by-law officer.

Powers and protections

(2) The powers and protections of the Director apply to and may be exercised by the persons referred to in paragraphs (1)(a) or (b) while acting under the instructions of the Director.

Oaths and affirmations

Power to administer oaths and affirmations

34. The Director may administer an oath or affirmation as if the Director were a commissioner for oaths to a person making a written declaration or affidavit in respect of any matter relating to the administration of this Act.

PART 5

EARLY LEARNING AND CHILD CARE SECTOR DEVELOPMENT

Minister's duties

Development of learning programs, services, policies and procedures

35. (1) In developing or making regulations, training courses, guidance documents and other resources respecting the following matters, the Minister must ensure that they align with and are reflective of Inuit perspectives, Inuit societal values and Inuit traditional knowledge including the principle of *Inunnguiniq* (making of a whole human being):

- (a) learning programs and services required by the regulations to be provided by operators;
- (b) the development of written policies and procedures required by the regulations;
- (c) child care centre governance.

Resources

(2) The Minister must develop guidance documents and other resources, and provide them to operators, related to

- (a) learning programs and services required by the regulations to be provided by operators;
- (b) the development of written policies and procedures required by the regulations; and
- (c) child care centre governance.

Publication

(3) The Minister must ensure that the guidance documents and other resources developed under subsection (2) are published on a website maintained by or for the Government of Nunavut.

Training

(4) The Minister must provide training to operators related to

- (a) learning programs and services required by the regulations to be provided by operators;
- (b) the development of written policies and procedures required by the regulations;
- (c) child care centre governance; and
- (d) the proper use of the guidance documents and other resources developed under subsection (2).

Inuit Language promotion

36. The Minister must, in accordance with section 9 of the *Inuit Language Protection Act*, promote early childhood Inuit Language development and learning by involving children and their parents and guardians throughout the early learning and child care sector.

Child care space creation

37. In administering this Act and in developing and making regulations under this Act, the Minister must take into account the need to create and maintain sufficient child care spaces to meet the demand for those spaces in each municipality.

Early Learning and Child Care Council

Council

38. (1) The Early Learning and Child Care Council is established.

Composition

(2) The Council is composed of the members appointed by the Minister for a term of three years, including members that represent

- (a) child care centre boards of directors;
- (b) employees of child care centres; and
- (c) at their discretion,
 - (i) Nunavut Tunngavik Incorporated,

- (ii) Kitikmeot Inuit Association,
- (iii) Kivalliq Inuit Association, and
- (iv) Qikiqtani Inuit Association.

Chairperson

(3) The Minister, on the recommendation of the Council, must appoint one of the members of the Council as chairperson of the Council.

Nominations by Inuit organizations

(4) If there is no member of the Council that represents an organization listed in paragraph (2)(c), or the term of such a member is about the expire, the organization may nominate a representative to the Council.

Appointment following nomination

(5) Following a nomination under subsection (4), the Minister must appoint the nominee to the Council

- (a) if there is no member of the Council that represents the nominating organization, as soon as practicable; or
- (b) if the term of the member of the Council that represents the nominating organization is about the expire, on the expiration of the term.

Revocation of appointment

(6) For greater certainty, except in the case of resignation, the appointment of a member of the Council appointed under subsection (5) may only be revoked on the recommendation of the nominating organization.

Functions

39. (1) The functions of the Council are to

- (a) receive and hear submissions and suggestions from individuals and groups concerning
 - (i) the incorporation of Inuit perspectives, Inuit societal values and Inuit traditional knowledge in Nunavut's early learning and child care sector,
 - (ii) support provided by the Government of Nunavut to Nunavut's early learning and child care sector, and
 - (iii) other improvements to Nunavut's early learning and child care sector;
- (b) provide advice and make recommendations to the Minister respecting Nunavut's early learning and child care sector, particularly with respect to
 - (i) the incorporation of Inuit perspectives, Inuit societal values and Inuit traditional knowledge,
 - (ii) the quality, accessibility and affordability of child care,
 - (iii) inclusion and equity,
 - (iv) Inuit Language support,
 - (v) funding, and

- (vi) guidance documents and other resources; and
- (c) perform other functions prescribed by regulation.

Consensus

(2) The chairperson must use reasonable efforts to have the Council reach a consensus of its members prior to making any decisions, but if the Council is unable to reach a decision by consensus, the Council may make a decision by majority vote of its members.

Meetings

(3) The Council must conduct its meetings in person or by any technological means that allows for simultaneous voice communication.

Personal information

(4) The personal information, as defined in the *Access to Information and Protection of Privacy Act*, of an individual must not be shared with the Council without consent of the individual.

Funding

40. (1) The Minister must provide the Council with amounts, determined by the Minister in consultation with the Council,

- (a) to fund one half-time position including equipment and supplies; and
- (b) to pay for the travel and accommodation costs necessary for one annual in-person meeting in Nunavut of the Council and the support staff funded under paragraph (a).

Employees not public servants

(2) The employees of the Council are not members of the public service.

Honoraria

(3) The members of the Council must be paid honoraria in accordance with directives issued under section 5 of the *Financial Administration Act*.

PART 6 ADMINISTRATION

Director of Early Learning and Child Care

Appointment of Director

41. (1) The Minister must appoint a member of the public service as Director of Early Learning and Child Care.

Power to delegate

(2) The Director may delegate, in writing, any of the Director's functions under this Act and the regulations, except

- (a) delegating functions under this subsection;
- (b) extending a suspension under paragraph 9(4)(c);

- (c) cancelling a licence;
- (d) reviewing a decision of a delegate under section 42; or
- (e) issuing of cancelling variances and exemptions under sections 44 to 46.

Reference to Director is reference to delegate

(3) When a delegate is performing the Director's functions under this Act and the regulations, any reference to the Director in this Act and the regulations includes the delegate.

Direction of Minister

(4) The Director must perform the Director's functions under this Act and the regulations under the direction of the Minister.

Reviewing decisions of a delegate

42. (1) If a delegate of the Director makes a decision under this Act or the regulations, other than the suspension of a licence, the person that is the subject of the decision may request the Director to review the decision by filing a written application for review that includes

- (a) the reasons for the request;
- (b) a summary of any facts relevant to the request;
- (c) the remedy the applicant is seeking; and
- (d) the contact information of the applicant.

Process

(2) The Director must consider the request for review, including any oral or written evidence submitted by the applicant or available to the Director to support or repudiate any allegation contained in the application for review.

Extrinsic evidence

(3) If the Director intends to rely on evidence other than that submitted by the applicant in considering an application for review, the Director must provide that evidence to the applicant and allow the applicant to respond with further evidence.

Review of decision

(4) The Director must, within five working days after receiving the application for review,

- (a) confirm, vary, or rescind the decision; or
- (b) make any decision the Director is authorized to make under this Act.

Copy to applicant

(5) The Director must provide the applicant, and a written copy of the decision made under subsection (4), with reasons, as soon as practicable.

Registry of licensed child care centres

43. (1) The Director must establish and maintain a registry of all licensed child care centres.

Publication

(2) The Director must publish a list of all licensed child care centres on a website operated by or for the Government of Nunavut.

Variations and exemptions

Variations by Director

44. (1) An operator or an applicant for a licence may apply to the Director, in accordance with the regulations,

- (a) to vary the application of a provision of Part 2 or 3 of this Act or the regulations that applies to the operator or applicant; or
- (b) for an exemption from a provision of Part 2 or 3 of this Act or regulations that applies to the operator or applicant.

Exceptions

(2) The Director may not issue a variation or exemption with respect to

- (a) section 4;
- (b) subsections 13(4) to (11);
- (c) subsection 16(5);
- (d) a licence condition that requires compliance with a law of Nunavut or Canada; or
- (e) a provision of the regulations that is, in accordance with the regulations, not subject to a variance or exemption.

Issuing a variation

(3) The Director may issue a variation or exemption if the Director is satisfied that the variation or exemption does not and will not increase any risk to the health, safety or well-being of a child.

Notice of variation

(4) A variation or exemption must be issued by notice in writing and must specify

- (a) the time period during which it is in effect; and
- (b) any conditions imposed on it under subsection 45(1).

Publication

(5) The Director must ensure that variations and exemptions issued under this section, as well as notices of cancellation of variations or exemptions under section 46, are published on a website operated by or for the Government of Nunavut.

Conditions

45. (1) The Director may impose any condition on a variation or exemption.

Effect of compliance

(2) Compliance with a variation or exemption, including its conditions, is deemed to be compliance with the provision of this Act and the regulations to which the variation or exemption applies.

Other requirements still apply

(3) For greater certainty, during the period that the variation or exemption is in effect, the requirements of this Act and the regulations that are not varied or subject to an exemption remain in effect.

Cancellation of variation or exemption

- 46.** (1) The Director may cancel a variation or exemption issued under section 44 if
- (a) the person has contravened a condition imposed on the variation; or
 - (b) the Director is no longer satisfied that the variation or exemption does not and will not increase any risk to the health, safety or well-being of a child.

Service of notice

(2) A notice of cancellation of a variation or exemption must be served on the person who was subject to the variation or exemption.

Exemption for Director

47. (1) The Minister may, in writing, exempt the Director from any of the requirements of this Act or the regulations, if the Minister is of the opinion that the exemption does not and will not increase any risk to the health, safety and well-being of a child.

Exception

- (2) The Minister may not provide an exemption with respect to
- (a) subsection 5(2), (9) or (10);
 - (b) section 6;
 - (c) section 9; or
 - (d) subsection 44(2).

Publication

(3) The Minister must ensure that exemptions issued under this section, as well as notices of cancellation of exemptions under this section, are published on a website operated by or for the Government of Nunavut.

Parts 3 to 5 of the *Legislation Act*

48. Parts 3 to 5 of the *Legislation Act* do not apply to variations, exemptions or cancellations of variations or exemptions under sections 44 to 47.

Establishment of Appeal Board

Appeal Board

49. (1) The Early Learning and Child Care Licensing Appeal Board is established.

Composition

(2) The Appeal Board is composed of the following members appointed by the Minister for a term of two years

- (a) three members

- (i) who, in the opinion of the Minister, have experience with or knowledge of the early learning and child care sector in Nunavut,
 - (ii) who are not employees of the Department responsible for the administration of this Act, and
 - (iii) no more than one of whom is an operator, board member or employee of a licensed child care centre; and
- (b) two members nominated by Nunavut Tunngavik Incorporated who
 - (i) in the opinion of Nunavut Tunngavik Incorporated, have experience with or knowledge of the early learning and child care sector in Nunavut,
 - (ii) are not employees of the Department responsible for the administration of this Act, and
 - (iii) are not operators, board members or employees of a licensed child care centre.

Chairperson

(3) The Minister, on the recommendation of the Appeal Board, must appoint one of the members of the Appeal Board as chairperson of the Appeal Board.

Nominations by Nunavut Tunngavik Incorporated

(4) Prior to making an appointment under paragraph (2)(b), the Minister must solicit a nomination from Nunavut Tunngavik Incorporated.

Appointment following nomination

(5) When the Minister receives a nomination solicited under subsection (4) within 60 days after soliciting the nomination, the Minister may only appoint the nominated individual, but may revoke the appointment of that individual for cause without the recommendation of Nunavut Tunngavik Incorporated.

Refusal by Minister

(6) The Minister may only refuse or fail to appoint an individual nominated under subsection (4) if

- (a) the Minister does so on reasonable grounds; and
- (b) the Minister provides written reasons for doing so to the nominating entity within 15 working days of the decision to refuse the appointment.

Temporary members

(7) If a position under paragraph (2)(b) is vacant and the Minister has solicited a nomination for that position under subsection (4), the Minister may, without a nomination, appoint an individual as a temporary member of the Board.

Term – temporary appointees

(8) The term of office of an individual appointed under subsection (7) ends on the earlier of

- (a) an individual being appointed following the nomination solicited under subsection (4); or

- (b) 60 days after an individual is nominated for that position by the nominating entity.

Functions – temporary appointees

(9) A temporary member appointed under subsection (7) has the same functions as any other member of the Appeal Board.

Solicitation of nominations on expiry

(10) The Minister must solicit a new nomination under subsection (4) no less than three months before the expiry of an appointment under paragraph (2)(b).

Expenses and honoraria

(11) The members of the Appeal Board must be paid honoraria and reimbursed for their expenses in accordance with directives issued under section 5 of the *Financial Administration Act*.

Confidentiality

(12) A member of the Appeal Board must not use or disclose, for a purpose other than the purpose for which the information was received, any information that comes to their knowledge in performing their functions under this Act.

Immunity

Immunity

50. The Director, a member of the Appeal Board or any other person or body is not liable for any loss or damage suffered by reason of anything done or not done by them in good faith in carrying out their functions under this Act.

Annual report

Annual report

51. (1) Within six months after the end of each fiscal year, the Minister must prepare an annual report on the administration of this Act, the regulations and section 9 of the *Inuit Language Protection Act*, including information on

- (a) compliance with licensing requirements and the regulations;
- (b) the efforts of the department responsible for the administration of this Act in promoting Inuit perspectives, Inuit societal values and Inuit traditional knowledge throughout the early learning and child care sector;
- (c) the application of Inuit perspectives, Inuit societal values and Inuit traditional knowledge in child care centres;
- (d) funding available to child care centres, including budgeted amounts and actual expenditures;
- (e) access to child care centres, including the number of licensed child care spaces;
- (f) training provided by the department responsible for the administration of this Act;

- (g) the development and provision of early childhood education materials and learning programs in the Inuit Language by the department responsible for the administration of this Act; and
- (h) trends, improvements and challenges facing the early learning and child care sector.

Tabling

(2) The Minister must table the annual report in the Legislative Assembly during the first sitting of the Assembly after the report is prepared that provides a reasonable opportunity for tabling the report.

Information-sharing Agreements

Information-sharing agreements

52. (1) The Minister may, on behalf of the Government of Nunavut, enter into agreements for the disclosure and exchange of information with the following:

- (a) the Government of Canada or any of its agencies;
- (b) Nunavut Tunngavik Incorporated, Kitikmeot Inuit Association, Kivalliq Inuit Association, and Qikiqtani Inuit Association; and
- (c) any entity providing early learning and child care funding to the Government of Nunavut.

Content of agreement

- (2) An agreement entered into under subsection (1)
 - (a) must not provide for disclosure of an individual's personal information, as defined in the *Access to Information and Protection of Privacy Act*; and
 - (b) may provide for the disclosure of aggregate information that relates only to groups of individuals in the form of statistical information or aggregated, general or anonymous data.

PART 7 OFFENCES AND PENALTIES

False advertising

53. (1) A person who does not have a licence for a child care centre must not advertise that the child care centre is licensed, or otherwise imply or represent that the child care centre is licensed.

False or misleading information

(2) A person must not give or record false or misleading information in an application made under this Act or a record, report or other document required to be maintained or submitted under this Act.

Offence

54. (1) A person who contravenes the following provisions is guilty of an offence and liable, on summary conviction, to the penalty provided for under subsection (2):

- (a) section 4;
- (b) subsection 13(7);
- (c) subsection 16(4);
- (d) subsection 16(5);
- (e) section 20;
- (f) subsection 22(5);
- (g) subsection 24(2);
- (h) section 53;
- (i) a provision of the regulations, the contravention of which is stated in the regulations to be an offence.

Penalties

(2) The penalty for a contravention listed in subsection (1) is

- (a) a fine not exceeding \$15,000;
- (b) imprisonment for a term not exceeding six months; or
- (c) both a fine and imprisonment.

Limitation period for continuing offence

55. In the case of a continuing offence, a proceeding may be commenced with respect to the continuing offence if it continued at any time during previous six month, whether or not the continuing offence commenced earlier.

Liability of corporate officers

56. (1) If a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the offence is guilty of the offence and is liable to the punishment provided for the offence as an individual, whether or not the corporation has been prosecuted.

Employees or agents

(2) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by any employee or agent of the accused person, even if the employee or agent is not identified or is not prosecuted for the offence.

Additional fine

57. If a person is convicted of an offence and the justice or judge is satisfied that monetary benefits accrued or could have accrued to the person as a result of the commission of the offence,

- (a) the justice or judge may order the person to pay an additional fine in an amount equal to the amount of the monetary benefits;
- (b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act; and
- (c) the additional fine is to be added to any other fine or amount of money ordered to be paid under this Act.

PART 8 REGULATIONS

Regulations

58. The Minister may make regulations

- (a) establishing a process for deeming individuals under the age of 16 to be children for the purposes of this Act;
- (b) respecting the information and documents to be included in applications for licences or licence amendments;
- (c) respecting the in-person inspections required for the issuance and renewal of licences, other than provisional licences;
- (d) respecting the reviews of space measurements and photographs or video required for the issuance of a provisional licence;
- (e) respecting the contents of licences;
- (f) respecting learning programs and services to be provided by licensed child care centres;
- (g) respecting the qualifications and requirements for employees of licensed child care centres;
- (h) respecting proofs of tuberculosis testing for the purposes of this Act;
- (i) respecting the requirements for parental involvement in the operation or management of licensed child care centres;
- (j) respecting access to records by persons entitled under subsection 14(3);
- (k) respecting written policies and procedures that must be developed and maintained by licensed child care centres;
- (l) respecting inquiries into compliance with the written policies and procedures that a licensed child care centre is required to develop and maintain under the regulations;
- (m) respecting the submission of
 - (i) the written policies and procedures that a licensed child care centre is required to develop and maintain under the regulations,
 - (ii) returns and reports prescribed by regulation, and
 - (iii) notifications under subsection 4(6);
- (n) respecting the contents of returns and reports to be submitted to the Director by licensed child care centres;
- (o) respecting the maintenance of records by licensed child care centres, including their management and security;
- (p) respecting the operation of
 - (i) licensed child care centres, and
 - (ii) child care centres that are authorized to operate without a licence;
- (q) respecting reports to be submitted to the Director under section 20;
- (r) respecting applications for variances and exemptions under section 44;
- (s) prescribing additional functions of the Council;
- (t) establishing funding programs for licensed child care centres;
- (u) respecting the operation of funding programs established under the regulations, including

- (i) procedures for applications to the Director for funding as well as the suspension or termination of funding by the Director,
- (ii) any eligibility criteria and other conditions for the receipt of funding,
- (iii) recording and reporting requirements respecting the funding, and
- (iv) repayment and collection of funding that a recipient was not entitled to receive;
- (v) prescribing a minimum wage for employees of licenced child care centres;
- (w) prescribing the maximum fee that a licensed child care centre may charge for each child attending the child care centre;
- (x) prescribing the maximum fee that a child care centre governed by Part 3 that receives funding under the regulations may charge for each child attending the child care centre;
- (y) respecting the service of notices under this Act;
- (z) prescribing the provisions of the regulations for the purposes of subsections 44(2) and 54(1); and
- (aa) respecting any other matter or thing necessary or advisable for carrying out the purposes and provisions of this Act.

PART 9 FINAL PROVISIONS

Transitional

Definition

59. (1) In this section, "former Act" means the *Child Day Care Act* and the regulations made under it as they read immediately before their repeal by this Act.

Transition – licences

(2) If, on the coming into force of this Act, a person has a valid licence issued under the former Act, that licence

- (a) is deemed to have been issued under this Act; and
- (b) subject to this section, continues to be valid if it complies with the requirements of the former Act until the earlier of
 - (i) the expiry of the licence,
 - (ii) one year after the coming into force of section 57, or
 - (iii) the cancellation of the licence.

Extending expiry

(3) The Director may defer the expiry of a licence issued under the former Act to not later than one year after the coming into force of section 66, if the operator continues to comply with the requirements for a licence under the former Act.

Transition – pending appeals

(4) A person who was refused a licence under the former Act and an operator whose licence was suspended or revoked under the former Act may appeal to the Minister under the former Act as if this Act had not come into force.

Transition – employee records

(5) Within six months after the coming into force of this Act, an operator of a licenced child care centre must collect from each employee

- (a) a criminal record check, including a vulnerable sector check; and
- (b) proof prescribed by regulation that they have undergone tuberculosis testing.

Transition – home child care centre

(6) Within six months after the coming into force of this Act, an operator of a licenced child care centre operated in a home must collect a criminal sector check, including a vulnerable record check from each adult residing in the home.

Consequential amendments

Cannabis Act

60. (1) Paragraph 35(1)(c) of the *Cannabis Act* is repealed and replaced by:

- (c) a child care centre, as defined in the *Early Learning and Child Care Act*, including its grounds;

(2) The English version of paragraph 35(1)(d) of the *Cannabis Act* is amended by deleting "day".

Education Act

61. Subsection 17(8) of the *Education Act* is repealed and replaced by:

Early Learning and Child Care Act

(8) The *Early Learning and Child Care Act* applies to programs provided under this section.

Inuit Language Protection Act

62. (1) This section amends the *Inuit Language Protection Act*.

(2) Paragraph 9(c) and subparagraph 25(3)(b)(ii) are amended by replacing "child day care operators and staff under the *Child Day Care Act*" with "child care centre operators and employees under the *Early Learning and Child Care Act*".

(3) Subsection 49(5) is repealed and replaced by:

(4.1) Section 9 comes into force on the earlier of

- (a) a day to be fixed by order of the Commissioner in Executive Council; and

- (b) the day section 66 of the *Early Learning and Child Care Act* comes into force.

(5) Section 10 comes into force on a day to be fixed by order of the Commissioner in Executive Council.

Public Health Act

63. Paragraph (b) of the definition of "institution" in section 3 of the *Public Health Act* is repealed and replaced by:

- (b) a school, child care centre or other similar institution;

Representative for Children and Youth Act

64. Paragraph (g) of the Schedule to the *Representative for Children and Youth Act* is repealed and replaced by:

- (g) Operators of child care centres licensed under the *Early Learning and Child Care Act*;

Tobacco and Smoking Act

65. (1) Paragraph 12(b) of the *Tobacco and Smoking Act* is repealed and replaced by:

- (b) a child care centre, as defined in the *Early Learning and Child Care Act*;

(2) The English version of paragraph 20(2)(e) of the *Tobacco and Smoking Act* is amended by deleting "day".

(3) Subparagraph 20(2)(j)(iii) of the *Tobacco and Smoking Act* is repealed and replaced by:

- (iii) a child care centre, as defined in the *Early Learning and Child Care Act*;

Repeal

66. The *Child Day Care Act* and the regulations made under it are repealed.

Coming into force

67. (1) Subject to subsection (2), this Act comes into force on a day to be fixed by order of the Commissioner in Executive Council.

(2) Subsection 62(3) comes into force on Assent.

