



BERMUDA

DAY CARE CENTRE REGULATIONS 1999

BR 63 / 1999

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SCHEDULE REGULATION 3

The Minister of Health and Family Services, in exercise of the powers conferred upon him by section 79 of the Children Act 1998, makes the following Regulations:—

PART I PRELIMINARY

Citation

- 1 These Regulations may be cited as the Day Care Centre Regulations 1999.

Definitions

- 2 In these Regulations—
“the Act” means the Children Act 1998;

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“Chief Fire Officer” means the Chief Fire Officer of the Bermuda Fire and Rescue Service;

“communicable disease” means a communicable disease as defined in section 66 of the Public Health Act 1949 and includes any disease specified in an order made under section 67 of that Act;

“licensed premises” means premises operated as a day care centre in respect of which a licence has been issued;

“operator” in relation to a day care centre, means the person to whom a licence has been issued, whether or not that person is also the person in charge;

“person in charge” means the person who has responsibility for the day to day administration of a day care centre and the care of children therein and is approved under Regulation 9.

[Regulation 2 “chief fire officer” amended by 2007:23 s.17 effective 2 July 2007]

PART II LICENSING

Licences

3 (1) A licence shall be in FORM 1 of the Schedule.

(2) A person who proposes to operate a day care centre shall apply in such form and manner as the Director of the Department of Health may determine.

(3) An application shall contain such information as the Director of the Department of Health may require and shall be accompanied by the fee prescribed under the Government Fees Act 1965.

[Regulation 3 amended by 2018 : 66 s.2 effective 10 January 2019]

Fire protection

4 (1) The Director of the Department of Health shall not issue a licence unless he has received a certificate from the Chief Fire Officer in accordance with the provisions of the Fire Safety Act 2014 that the premises in respect of which the licence is sought have been inspected and meet the relevant standards for fire safety and prevention.

(2) The Chief Fire Officer and any fire officer authorized by him may at any reasonable time enter the licensed premises and inspect the premises and the operation thereof with regard to fire safety standards.

(3) The Chief Fire Officer or a fire officer may issue directions in writing regarding fire safety to the operator of the licensed premises and the operator shall comply with those directions.

[Regulation 4 paragraph (1) amended by 2014 : 33 s. 55 effective 1 January 2018; Regulation 4 para (1) amended by 2018 : 66 s.2 effective 10 January 2019]

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Display of licence

5 Where the Director of the Department of Health issues a licence or provisional licence, the operator shall cause the licence to be displayed in a prominent place on the licensed premises.

[Regulation 5 amended by 2018 : 66 s.2 effective 10 January 2019]

PART III

STANDARDS FOR PROGRAMMES AND ACTIVITIES

Activity plan and programmes

6 (1) The person in charge shall have a written description of the various activities of the centre which shall be available on request by an inspector or parent of any child in the centre.

(2) The person in charge shall provide a well-balanced programme that supports the developmental needs of all children including the following elements—

- (a) regularity in routine, with sufficient flexibility to respond to the needs of individual children;
- (b) opportunity for a child to have a free choice among a variety of activities or to play alone with one or several chosen peers if desired, for at least two periods (not less than 20 minutes per period) a day, for full day centres; and one period a day, for half-day centres;
- (c) daily indoor and outdoor time periods, weather permitting, which include both small and large muscle activities;
- (d) opportunities for the child to participate in a variety of creative activities, such as art, movement, music, literature, dramatic play and science;
- (e) provision for privacy by providing a small area that is inviting to children and is easily accessible to the child who seeks or needs time alone;
- (f) recognition of, and respect for, cultural diversity;
- (g) opportunity for infants and older children to explore freely within a safe area for the major part of the day, with certain times specified for individual interactions with the assigned staff member;
- (h) provision for ongoing verbal interaction between adults and children, and between children and their peers;
- (i) opportunities for all children to learn self-help skills such as dressing and undressing, buttoning, tying shoes and using eating utensils;
- (j) outdoor play space that promotes the intellectual, social and physical development of children; and

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- (k) play equipment that meets all relevant safety regulations under section 11(2)(d) and (3).

Child/Staff ratio

7 (1) The acceptable staff-child ratio is to be determined in accordance with the following Table:

	Acceptable range of staff/child ratios within group-size								
	<i>Group Size</i>								
	6	8	10	12	14	16	18	20	24
Infants 0.12 months	1:3	1:4							
Toddlers 12-24 months	1:3	1:4	1:5	1:4					
2 years		1:4	1:5	1:6	1:7				
3 years			1:5	1:6	1:7	1:8		1:10	
4 years and above						1:8	1:8	1:10	1:12

(2) For the purposes of paragraph (1) children of the person in charge or of other staff shall be included if they attend the centre.

(3) Adult supervision shall be continuous and children with special needs must have the attention of an appropriate professional.

(4) When regular staff members are absent, the operator must ensure that qualified staff are substituted for them.

Discipline

8 Discipline and guidance shall be consistent and based on an understanding of individual needs and development of a child, applying the following guidelines—

- (a) no child shall be subjected to physical punishment, humiliation, or verbal abuse;
- (b) no child shall be denied food, shelter, clothing or bedding as a form of punishment;
- (c) no child shall be punished for soiling, wetting or not using the toilet;
- (d) no child shall be unattended at any time, including isolation periods.

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PART IV PERSONNEL REQUIREMENTS

Person in charge

9 (1) A group child care centre shall at all times be in the charge of a person approved by the Director of the Department of Health.

(2) The Director of the Department of Health shall approve a person in charge under the provisions of this regulation if the person is at least 18 years of age and—

(a) has at least three years of experience in a day care setting and has satisfactorily completed at least one of the following:—

(i) an Associate Degree in Early Childhood Education, or its equivalent;

(ii) a degree, other than an Associate Degree, that included four courses in early childhood education offered at an accredited institution of higher learning; or

(b) has a B.A. in Early Childhood Education, or equivalent, and one year of post-certification experience.

(3) The person in charge, or the deputy, must be on the premises at all times.

(4) The Director of the Department of Health may issue a certificate authorizing other persons to deputise for the person in charge when the person in charge is unable to be on the premises.

(5) A deputy shall be at least 18 years of age and—

(a) hold a minimum of the Bermuda College Certificate for Child Care Assistants, or equivalent, with three years of post-qualification experience; or

(b) hold an Associate Degree in Early Childhood Education, or its equivalent and have one year of post-certification experience; or

(c) hold similar qualifications to those required for a person in charge.

(6) Where the person in charge is absent for more than two weeks within a three month period, the deputy shall have similar qualifications to those required for a person in charge.

[Regulation 9(2) and (5) amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001; Regulation 9 amended by 2018 : 66 s.2 effective 10 January 2019]

Staff

10 (1) No day care centre shall be operated at any time with a staff of less than two persons unless the Director of the Department of Health otherwise directs.

(2) In addition to the person in charge and the deputy, at least 50% of the remaining staff shall meet the following requirements—

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- (a) be at least 18 years of age;
- (b) have satisfactorily completed the Bermuda College Certificate for Child Care Assistants, or its equivalent,

however, the Director of the Department of Health, may authorize the employment of a person who has significant and successful past experience of providing day care, even though no formal qualifications have been obtained.

(3) The operator may engage day care assistants (either paid or volunteer) who do not meet the requirements of paragraph (2) if they are over 16 years of age and work under the direct supervision of qualified staff at all times.

(4) At least one staff member with certification in first aid and CPR (cardiopulmonary resuscitation) must be present in the day care centre at all times.

(5) Staff and assistants engaged in the operation of licensed premises, whilst so engaged, shall wear clean, suitable clothing or uniforms.

(6) No persons shall engage in the care of children in a day care centre unless the person first produces to the operator—

- (a) a certificate by a registered medical practitioner certifying that such person is free from communicable disease; and
- (b) a reference of good character and fitness to care for children from a credible authority,

and the operator shall retain such certificates and references and keep them available for inspection by the Director of the Department of Health at all times.

(7) Any person involved in child care must disclose details of any criminal convictions and must declare—

- (a) if they have been refused registration or a permit to act as a foster parent;
- (b) if a child of theirs has been the subject of action under child protection procedures; or
- (c) if they have been involved in alleged incidents of abuse or neglect of a child.

(8) If the Director of the Department of Health considers the continued employment of any person in or about a day care centre, presents a hazard to the welfare of the children, he may, by order in writing to the operator, direct him to discharge or suspend that person for such a period as the Director of the Department of Health considers necessary, and cause his removal from the licensed premises, and the operator shall forthwith comply with any such order.

(9) The operator of a day care centre shall maintain at the centre a file on the qualifications of all persons employed at the centre and that file shall be made available for inspection on the request of an inspector.

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(10) If any changes in staff are made, the operator must notify the Director of the Department of Health immediately, and provide him with copies of relevant certificates and documents pertaining to the new staff member.

[Regulation 10 amended by 2018 : 66 s.2 effective 10 January 2019]

PART V BUILDINGS AND EQUIPMENT

Buildings and equipment, standards and requirements

11 (1) A day care centre shall have a minimum of 25 square feet of activity space per child, excluding the area of any kitchen, wash and toilet rooms, and isolation rooms, and shall meet the following requirements—

- (a) the floor, walls and ceiling shall be sound and clean, and kept in good repair at all times, floors of rooms to be used by children shall be clean, non-slippery, smooth and free from cracks, splinters and sharp or protruding objects and other safety hazards and paint used on floors, walls, ceilings, implements, furniture and toys, shall be free from lead or any toxic ingredient;
- (b) rooms shall be adequately lit naturally, and alternatively or additionally, artificially and ventilated in accordance with the Building Code and recognised practice;
- (c) furnishings shall be of a suitable size and furnishings and fixtures, toys and other play equipment, shall be maintained in a proper state of repair and kept clean at all times;
- (d) all doors, windows and other openings into the outer air of any room forming part of the licensed premises, shall be effectively screened; suitable guards shall be provided across the inside of windows above the first floor if the windows are accessible to children, and guards shall be placed at the top and bottom of stairwells opening into areas used by children;
- (e) all electrical outlets, wiring and connections shall be in accordance with recognised electrical installation standards;
- (f) all electrical outlets which are within the reach of children shall have approved cover plates when not in use, and blades of electric fans shall be suitably screened from the reach of children;
- (g) there shall be sufficient space, accessible to children, for each child to store clothing and other personal items;
- (h) all medicines, cleaning supplies and detergents shall be kept, when not required for use, in an area or place inaccessible to the children, preferably in a locked cabinet;

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- (i) hot water temperature shall not exceed 110°F (43°C) at outlets used by children;
 - (j) an individual cot, approved by the Director of the Department of Health, shall be assigned for use by each child who is received on the premises for four or more hours each day; all cots and cribs shall be covered with a suitable, washable sheet or similar cover, be maintained in a clean condition at all times, and shall be of sound construction and of suitable size for the child;
 - (k) there shall be a minimum of two feet of walkspace left between occupied cots, cribs or playpens;
 - (l) except where exempted by the Director of the Department of Health there shall be a separate room or area, approved by the Director of the Department of Health, for the isolation of any child suspected of having a communicable disease where that child may be isolated, maintained in a comfortable condition and properly supervised until reclaimed;
 - (m) there shall be designated space, separate from children's play or rest areas, for administrative duties and staff or parent conferences;
 - (n) reasonable precautions shall be taken to prevent the admission or harbouring of any rodent, insect or vermin, and the Director of the Department of Health may order the temporary closure of any day care centre premises where insect and other vermin eradication measures are considered necessary;
 - (o) there shall be exits on the premises to the satisfaction of the Chief Fire Officer in accordance with the provisions of the Fire Safety Act 2014;
 - (p) there shall be a working telephone available on the premises with emergency numbers posted and parent numbers easily accessible.
- (2) The operator of a day care centre shall maintain, or have access to, an outdoor play area of at least 50 square feet per child using it at any one time which shall conform to the following requirements:—
- (a) the outdoor area shall provide shade and open space;
 - (b) the outdoor area shall be free from hazards, including hidden corners, unprotected water tanks or pools, wells, cesspools, steps, poisonous plants (poison ivy), and dangerous machinery or tools;
 - (c) the outdoor area shall be fenced with a suitable barrier at least four feet high, and fencing shall be in good repair; and
 - (d) the ground shall be unpaved under all climbing and moving equipment, and may be covered by grass, non-compacted sand or other approved surfacing.

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(3) The play equipment (indoor and outdoor) must be easily cleaned, safely constructed, flame retardant, free of rust, lead paint, protruding nails and other hazards, and must be kept clean and maintained in a safe working condition at all times.

(4) Premises shall be located on the ground floor unless the Director of the Department of Health is satisfied that appropriate safety and health precautions have been provided, in which event he may permit the day care centre to be established below the ground floor or above the ground floor.

(5) No structural alterations or extensions shall be made to the premises of any day care centre unless the approval of the Director of the Department of Health is obtained, and the alteration or extension is made in accordance with and subject to any statutory provisions relating to building control and development.

(6) No child shall be permitted to enter a kitchen or laundry, if such facilities are provided on the premises, unless he is accompanied by an adult.

[Regulation 11 paragraph (1)(o) amended by 2014 : 33 s. 55 effective 1 January 2018; Regulation 11 amended by 2018 : 66 s.2 effective 10 January 2019]

PART VI

RECORDS, INSURANCE AND TRANSPORTATION

Records

12 In addition to the matters specified in section 75 of the Act, the operator shall maintain—

- (a) a daily attendance record in respect of each child in the day care centre; and
- (b) a record of the date of birth of each child.

Insurance

13 Every operator shall provide that a policy of insurance with respect to the day care centre is obtained and maintained in full force and effect which policy must include—

- (a) comprehensive general liability coverage, including accidental death and personal injury caused to children on or off the premises while under the supervision of the centre's personnel;
- (b) comprehensive general liability coverage and personal injury coverage, including coverage for the employees and volunteers;
- (c) comprehensive general liability policy to be extended to cover loss of life or personal injury to children, employees and volunteers while riding in private vehicles for activities of the day care centre.

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Transportation

14 (1) The operator shall describe, in writing, any plans for transportation of children, including the names of persons authorised to transport children and transportation of children in an emergency.

(2) When children are being transported in connection with the activities or programs of a day care centre—

- (a) the driver shall not drive vehicles unless all children are seated and the number of children does not exceed the number of seats therein at any time;
- (b) children shall not be left unattended in vehicles at any time;
- (c) sharp, heavy or potentially dangerous objects shall not be transported, or shall be securely restrained;
- (d) children shall be loaded from curbside or at a safe off-street area away from the flow of traffic so that they are protected from all traffic hazards;
- (e) children shall be delivered to a member of the staff of the day care centre or to the parent or a person appointed by the parent;
- (f) all children 2 years of age and under, shall be seated in suitable safety carriers;
- (g) there should be a member of the staff of the day care centre in attendance in addition to the driver.

PART VII HEALTH CARE

Medical examinations, communicable disease precautions, etc.

15 (1) A Government medical officer may carry out in any day care centre a medical examination of children attending such a centre.

(2) The examination shall be carried out as nearly as possible in the manner set out in section 166 of the Public Health Act 1949, and for the purposes of that section, the day care centre shall be deemed a school, and the operator shall be deemed to be the principal thereof.

(3) No person shall engage in the care of children at a day care centre whilst suffering from any communicable disease, acute upper respiratory tract infection, influenza, gastro-intestinal illness or any contagious infection of the skin.

(4) No child shall be allowed to attend a day care centre if he is suspected by the person in charge to be suffering from a communicable disease.

(5) In relation to infectious diseases, the operator shall develop a policy for the management of children with infectious diseases that is consistent with the guidelines issued by the Chief Medical Officer relating to HIV infection.

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(6) Any person engaged in the care of children at a day care centre shall submit himself to any medical examination ordered by the Chief Medical Officer, and if he fails to do, the Chief Medical Officer may direct the operator to cease to engage that person.

(7) No person shall engage in the care of any children in a day care centre unless such person first produces to the operator and thereafter as considered necessary by the Chief Medical Officer, a certificate by a registered medical practitioner certifying that such person is free from communicable disease, and the operator shall retain such certificate and keep it available for inspection by the Chief Medical Officer at all times.

(8) Smoking shall not be permitted in any area used by children.

(9) No drug or medication shall be administered to any child without specific written instructions from a parent of the child, a physician or other authorized health professional.

(10) The operator of a day care centre shall provide—

- (a) a fully stocked first-aid kit, that shall be kept and maintained in a readily available location at the day care centre that is inaccessible to children;
- (b) a portable first-aid kit for use on field trips or when the children are engaged in activities away from the day care centre.

PART VIII

SANITARY REQUIREMENTS

Toilets and wash facilities

16 (1) There shall be provided in every day care centre not less than one flush toilet for every unit of 15 children or part of such a unit.

(2) There shall be provided in every group child care centre not less than one wash-basin for every unit of 15 children or part of such a unit.

(3) Separate flush toilets and wash-basin accommodation shall be provided for the staff on the premises to the satisfaction of the Director of the Department of Health, together with soap, paper towels, or other approved hand drying facilities.

(4) Soap and towels shall be provided at all times for the children and, except where paper towels are provided, each child shall have his own towel.

(5) If wash-cloths, combs, hairbrushes or toothbrushes are provided, each child shall have such articles for his own personal use.

(6) Where child toilet training pots are provided for the use of children in the day care centre—

- (a) each pot shall be cleaned and disinfected after each use by a method of cleaning approved by the Director of the Department of Health;

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- (b) sufficient child toilet training pots should be provided for the number of children in the child care centre.

[Regulation 16 amended by 2018 : 66 s.2 effective 10 January 2019]

Miscellaneous sanitation requirements

17 (1) Garbage containers used for the purpose of a day care centre shall be emptied at regular intervals, maintained in a clean and sanitary condition, and shall be kept covered at all times.

(2) Sheets or pillow-cases shall be maintained in a clean condition, and until a sheet or pillow-case has been laundered, it shall not be used by any child other than the one by whom it was used before being laundered.

(3) Where a child is bottle-fed, the container used in feeding shall be cleaned immediately after used by the day care centre's staff and shall subsequently, and prior to refilling, be sterilised by the parent or guardian of the child, unless facilities for sterilising facilities, approved by the Director of the Department of Health, are provided at the centre.

[Regulation 17 para (3) amended by 2018 : 66 s.2 effective 10 January 2019]

Laundry facilities

18 (1) Where a day care centre provides laundry services, the laundry facilities shall include—

- (a) sinks or other containers approved by the Director of the Department of Health for the purpose of holding the children's soiled diapers, and such sinks or containers shall be used for no other purpose;
- (b) drying facilities approved by the Director of the Department of Health;
- (c) a constant supply of hot water;
- (d) facilities approved by the Director of the Department of Health for disinfecting the children's diapers;
- (e) lined and covered receptacles for disposable diapers which are to be removed from premises for proper disposal each day.

(2) Changing tables and pads must be cleaned and disinfected after each use.

[Regulation 18 amended by 2018 : 66 s.2 effective 10 January 2019]

PART IX

FOOD AND NUTRITIONAL REQUIREMENTS

Preparation of food

19 (1) Subject to paragraph (2), no meal, except a light mid-morning or afternoon snack, shall be prepared or served in any day care centre and the operator may give to parents guidelines as to what sort of breakfast or lunch they should send with their child.

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(2) Upon written application the Director of the Department of Health may grant permission for the preparation and service of meals to children who are cared for on licensed premises and the Director of the Department of Health shall endorse the licence accordingly.

(3) The Director of the Department of Health may refuse to grant permission under paragraph (2) unless he is satisfied that—

- (a) the kitchen provided complies with the provisions of the Public Health (Food) Regulations 1950;
- (b) all utensils are free from cracks, chips and corrosion and are maintained in a clean condition at all times;
- (c) all utensils are stored under conditions that he considers satisfactory;
- (d) a registered dietician is consulted to ensure that the meal and snacks provided are nutritionally adequate and consistent with the Bermuda Dietary Guidelines; and
- (e) all persons involved in the handling of food have successfully completed a course approved by the Director of the Department of Health with respect to the safe handling of food,

and the Director of the Department of Health may withdraw permission and cancel any endorsement made by him on a licence if he ceases to be so satisfied.

[Regulation 19 amended by 2018 : 66 s.2 effective 10 January 2019]

Milk

20 (1) No fresh or filled milk, or reconstituted drinks containing fresh or filled milk, shall be served unless the milk has been pasteurising.

(2) No skimmed milk shall be used for children under 18 months of age, except on the instructions of a registered medical practitioner.

(3) All water used for the purposes of reconstituting powdered milk shall be from a source approved as drinking water, and shall be boiled and cooled before use.

(4) All milk and dairy foods, other than dried or powdered milk and unopened tins of milk, shall be refrigerated so as to maintain their quality and nutritional content.

Storage of pasteurized food

21 All pasteurized food brought into the day care centre must be stored at appropriate temperature, that is to say for cold food, 40F or below and for hot food, 140°F or above.

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PART X ENFORCEMENT

Enforcement

22 (1) An inspector may, at any reasonable time, visit and inspect any day care centre.

(2) The operator shall ensure that a record is kept of all inspections and recommendations made by an inspector.

Onus of proof

23 In any prosecution for an offence against these Regulations, the onus of establishing that licence under these Regulations has been given shall be upon the person alleging it.

PART XI MISCELLANEOUS PROVISIONS

Notices

24 Any notice required to be given under these Regulations may be served in the manner provided for in section 179 of the Public Health Act 1949.

Commencement

25 These Regulations come into force on 1st January 2000.

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SCHEDULE REGULATION 3

(1)

FORM 1
THE CHILDREN ACT
DEPARTMENT OF HEALTH
DAY CARE LICENCE

Pursuant to Part IX of the Children Act 1998 this LICENCE/PROVISIONAL LICENCE is issued to

of (NAME OF OPERATOR) to operate a day care centre under the name
of (NAME OF DAY CARE CENTRE) at (LOCATION) between the hours
of to .

Subject to the following conditions:

1. The maximum number of children is
- 2.
- 3.

LICENCE NUMBER EXPIRY DATE

RENEWED UNTIL

RENEWED UNTIL

RENEWED UNTIL

Issued this day of

DIRECTOR OF THE DEPARTMENT OF HEALTH

THIS LICENCE MUST BE PROMINENTLY DISPLAYED IN THE DAY CARE CENTRE.

[Schedule, Form 1 amended by 2018 : 66 s.2 effective 10 January 2019]

Made this 4th day of November 1999.

Minister of Health and Family Services

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[Amended by:

2001 : 20

2007 : 23

2014 : 33

2018 : 66]