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c 11 The Day Nurseries Amendment Act, 1971 (No. 2)

Ontario
CHAPTER 11

An Act to amend
The Day Nurseries Act

Assented to December 17th, 1971
Session Prorogued December 17th, 1971

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

1. Section 1 of The Day Nurseries Act, being chapter 104 of R.S.O. 1970,
the Revised Statutes of Ontario, 1970, as amended by the
Statutes of Ontario, 1971, chapter 50, section 25, subsection 1
and 1971, chapter 93, section 1, is repealed and the following
substituted therefor:

1. In this Act,

(a) "approved corporation" means a corporation
approved under section 2b;

(b) "band" and "council of the band" have the
same meaning as in the Indian Act (Canada); R.S.C. 1970,
(c) "Board" means the Day Nursery Review
Board established under section 5;

(d) "corporation" means a corporation without
share capital having objects of a charitable
nature,

(i) to which Part III of The Corporations R.S.O. 1973,
Act applies, or

(ii) that is incorporated under a general or
special Act of the Parliament of Canada;

(e) "day nursery" means a place that receives,
primarily for the purpose of temporary care
and custody, for a continuous period not exceeding twenty-four hours, more than five children, not of common parentage, who are,

(i) under eighteen years of age in the case of a day nursery for retarded children, and

(ii) under ten years of age in all other cases,

and that is not,

(iii) part of a public school under The Public Schools Act,

(iv) part of a separate school under The Separate Schools Act,

(v) part of a private school registered under The Department of Education Act,

(vi) a children's mental health centre under The Children's Mental Health Centres Act, or

(vii) a school for trainable retarded children under The Secondary Schools and Boards of Education Act;

(f) "Director" means the Director of the Day Nurseries Branch of the Department of Social and Family Services;

(g) "licensed day nursery" means a day nursery licensed under this Act;

(h) "Minister" means the Minister of Social and Family Services;

(i) "municipality" means a city, town, village, township or county and includes a metropolitan municipality, but does not include a local municipality in a metropolitan municipality;

(j) "operator" means a person or a partnership or association of persons that has the control and management of a day nursery, and "operate" has a corresponding meaning;
(k) "private-home day care" means the temporary care and custody for reward or compensation of not more than five children under ten years of age in a private residence other than the home of a parent or guardian of any such child, for a continuous period not exceeding twenty-four hours;

(l) "regulations" means the regulations made under this Act;

(m) "retarded children" means children in whom there is a condition of arrested or incomplete development of mind as verified by objective psychological or medical findings.

2. Subsection 4 of section 2 of the said Act is repealed and the following substituted therefor:

(4) The Minister may,

(a) with the approval of the Lieutenant Governor in Council, establish day nurseries in areas without municipal organization;

(b) enter into an agreement with any person or organization operating a licensed day nursery for the furnishing of such day nursery services for such children residing in areas without municipal organization as is agreed upon; and

(c) direct payment of such expenditures as are necessary for the purposes of clauses (a) and (b).

3. The said Act is amended by adding thereto the following sections:

2b. Where the Lieutenant Governor in Council is satisfied that any corporation,

(a) is affiliated with the Ontario Association for the Mentally Retarded; or

(b) is, on the day this section comes into force, operating a licensed day nursery for retarded children,

and, with financial assistance under this Act, is financially capable of establishing, maintaining and operating a day nursery for retarded children and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the payment of grants under this Act and the regulations.
2c.—(1) Subject to this section, any approval given under section 2b may be suspended by the Minister or revoked by the Lieutenant Governor in Council on the recommendation of the Minister if,

(a) any director, officer or servant of the approved corporation has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provisions; or

(b) the approval would be refused if application were being made for it in the first instance.

(2) Subject to subsection 6 and except where an approval is suspended or revoked with the consent of the approved corporation, before suspending or before recommending to the Lieutenant Governor in Council revocation of an approval given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person, other than a person in the employment of the Department of Social and Family Services, appointed by the Minister.

(3) Sections 4 to 16 and 21 to 24 of The Statutory Powers Procedure Act, 1971 apply with respect to a hearing under this section.

(4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the suspension or revocation of the approval, and shall send a copy of his report to the persons affected.

(5) After considering a report made to him under this section, the Minister may thereupon suspend or recommend revocation of the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor.

(6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval
given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 5 apply.

4.—(1) Clause a of subsection 1 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 93, section 3, is amended by striking out "or the renovation" in the first and second lines.

(2) The said section 3, as re-enacted by the Statutes of Ontario, 1971, chapter 93, section 3, is amended by adding thereto the following subsection:

(3) There shall be paid to every approved corporation an amount equal to 80 per cent of its costs computed in accordance with the regulations for the operation and maintenance of every licensed day nursery for retarded children maintained and operated by the corporation.

5. Sections 3a and 3b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 93, section 3, are repealed and the following substituted therefor:

3a.—(1) Where the Minister has approved the erection of a new building, an addition to an existing building, the purchase or other acquisition of an existing building or the renovation or the furnishing and equipping of a building,

(a) by a municipality or band for use in whole or in part as a day nursery; or

(b) by an approved corporation for use in whole or in part as a day nursery for retarded children,

he may direct payment to the municipality, band or approved corporation, as the case may be, out of moneys appropriated therefor by the Legislature, of an amount to be computed in accordance with the regulations, towards the cost of the new building, addition, acquisition, renovation, or furnishing and equipment that is applicable to the day nursery.
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(2) An amount payable to a municipality, a band or an approved corporation under this section shall be paid at such time and in such manner as are prescribed by the regulations.

Approval to sale, etc.

3b.—(1) No municipality, band or approved corporation shall change the site, structure or use of, or sell, lease, mortgage or otherwise dispose of any part of or interest in any day nursery, in respect of which the municipality, band or approved corporation, as the case may be, has received payment of a grant under section 3a, without the approval in writing of the Director, and such approval may be made subject to such conditions for repayment in whole or in part of any such grant as the Director may consider advisable.

Recovery of whole or part of grant

(2) Where a municipality, band or approved corporation changes the site, structure or use of, or sells, leases, mortgages or otherwise disposes of any part of, or interest in any day nursery without the approval of the Director, or where such approval has been given, is in default of any condition for repayment imposed under subsection 1, the whole or any part of any grant paid under section 3a in respect of the day nursery may be recovered as a debt due to the Crown from the municipality, band or approved corporation, as the case may be,

(a) out of moneys payable by Ontario to the municipality, band or approved corporation under the authority of any Act; or

(b) by proceedings in any court of competent jurisdiction.

6. Subsection 3 of section 15 of the said Act is repealed and the following substituted therefor:

Obstructing inspection

(3) No person shall hinder or obstruct a provincial supervisor in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information.

7.—(1) Clause ca of section 16 of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 93, section 4, is amended by striking out "and bands" in the first line and inserting in lieu thereof "bands and approved corporations".
(2) The said section 16, as amended by the Statutes of Ontario, 1971, chapter 93, section 4, is further amended by adding thereto the following clauses:

\((cb)\) specifying the corporations that are approved under section 2b;

\((da)\) prescribing classes of capital grants for the purposes of section 3a, the circumstances under which any such grant or class thereof may be paid, and determining the amounts of any such grants or classes thereof.

8. This Act comes into force on the day it receives Royal Assent.

9. This Act may be cited as The Day Nurseries Amendment Act, 1971 (No. 2).