

MINISTER OF CHILDREN AND FAMILY DEVELOPMENT

BILL 14 – 2021

EARLY CHILDHOOD EDUCATORS ACT

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

PART 1 – DEFINITIONS

Definitions

1 In this Act:

“**approved program**” means a program that is approved under section 10 [approval of eligible programs];

“**board**” means the Community Care and Assisted Living Appeal Board continued under section 29 [appeals to the board] of the *Community Care and Assisted Living Act*;

“**child**” means an individual under the age of 13 years;

“**institution**” means any of the following:

- (a) an institution that holds a designation certificate as defined in the *Private Training Act*;
- (b) an institution as defined in the *College and Institute Act*;

(c) a university as defined in the *University Act*, the *Royal Roads University Act* or the *Thompson Rivers University Act*;

(d) an entity in a prescribed class of entities;

“official website” means a website that is

(a) established and maintained by or on behalf of the government, and

(b) accessible by the public without charge;

“registrant” means an individual who is registered under section 5 [*registration of eligible individuals*];

“registrar” means the person designated as registrar under section 2 [*designation of registrar*].

PART 2 – REGISTRATION OF EARLY CHILDHOOD EDUCATORS AND APPROVAL OF PROGRAMS

Division 1 – Registrar and Registry

Designation of registrar

- 2 The minister must designate, as registrar, a person who is appointed under the *Public Service Act*.

Delegation by registrar

- 3 (1) The registrar may delegate to any person or class of persons any power or duty given to the registrar under this Act.
- (2) A delegation under subsection (1) must be in writing and may include any terms or conditions the registrar considers advisable.

Registry

- 4 (1) The registrar must establish and maintain on the official website a registry that includes the following information about every individual who is a registrant:
- (a) the individual’s name;
 - (b) the class of registrants in which the individual is registered;
 - (c) any conditions of, or limitations on, the individual’s registration;
 - (d) the date the individual’s registration expires;
 - (e) if there is a suspension of the individual’s registration that is in effect, a note of the suspension;
 - (f) any other information required by the regulations.

- (2) If an individual's registration expires or is cancelled, the registrar may, for the period of time prescribed, include the following information in the registry:
 - (a) the individual's name;
 - (b) a note of the expiry or cancellation;
 - (c) the date of the expiry or cancellation;
 - (d) any other information required by the regulations.
- (3) The registrar must include in the registry the following information about every program that is an approved program:
 - (a) the name of the program;
 - (b) the name of the institution offering the program;
 - (c) the class of registrant for which the program is approved;
 - (d) any conditions of, or limitations on, the approval of the program;
 - (e) the location, if any, for which the program is approved;
 - (f) if the program is offered in whole or in part through distance education, a note of that fact;
 - (g) if there is a suspension of the program's approval that is in effect, a note of the suspension;
 - (h) any other information required by the regulations.
- (4) If a program's approval is cancelled, the registrar may, for the period of time prescribed, include the following information in the registry:
 - (a) the name of the program and the institution that offers or offered it;
 - (b) a note of the cancellation;
 - (c) the date of the cancellation;
 - (d) the location, if any, for which the program had been approved;
 - (e) if the program is or was offered in whole or in part through distance education, a note of that fact;
 - (f) any other information required by the regulations.

Division 2 – Early Childhood Educators

Registration of eligible individuals

- 5 (1) On application by an individual in accordance with this section, the registrar must register the individual if the registrar is satisfied that
 - (a) the individual is of good character and is otherwise fit and proper to work with children,

- (b) the individual meets the education, training, experience and any other requirements established by regulation, and
 - (c) the individual is not disqualified under this Act from being registered.
- (2) An application for registration must
 - (a) be given to the registrar in the form and manner required by the registrar,
 - (b) include the information and records required by the regulations, and
 - (c) in the case of an applicant who is a minor, be signed by a parent or guardian of the applicant.
- (3) For the purpose of determining whether an applicant is eligible to be registered, the registrar may
 - (a) require the applicant to provide any information and records the registrar considers necessary, and
 - (b) exercise the powers prescribed, if any.
- (4) The registrar may register an individual subject to a condition or limitation if the registrar is satisfied that the condition or limitation is necessary for either or both of the following purposes:
 - (a) to ensure the health, safety or well-being of a child;
 - (b) to ensure the individual's compliance with this Act or the regulations.
- (5) The registrar must give an individual written notice within 7 days after making any of the following decisions:
 - (a) a decision to refuse to register the individual;
 - (b) a decision to impose a condition or limitation on an initial registration of the individual;
 - (c) a decision to impose a new condition or limitation, or vary a condition or limitation, on a renewal of a registration of the individual.
- (6) A notice under subsection (5) must include
 - (a) the registrar's reasons for the decision to which the notice relates, and
 - (b) information about any right to request reconsideration.
- (7) The registrar must cancel the registration of a registrant if the registrar receives either
 - (a) a written request for cancellation from the registrant, or
 - (b) written notice of the registrant's death.

Duty of registrants to notify registrar

- 6 A registrant must give the registrar written notice within 30 days after any of the following events:
- (a) a change is made to the registrant’s name or contact information;
 - (b) the registrant is charged with or convicted of a specified offence, as defined in the *Criminal Records Review Act*;
 - (c) an action is taken in relation to the registrant as a result of a finding of professional misconduct, incompetence or incapacity or other similar finding made by a professional association or other entity with regulatory responsibility over the registrant.

Duty of confidentiality

- 7 (1) In this section, “**parent**” includes the following:
- (a) a guardian of a minor;
 - (b) the person legally entitled to custody or control of a minor;
 - (c) the person who usually has the care and control of a minor.
- (2) A person who, while acting in the person’s capacity as a registrant, obtains information about a child or a family member of a child must not use or disclose the information except as follows:
- (a) for the purpose of performing the person’s duties as a registrant;
 - (b) with the written consent of the person to whom the information relates or, if the person is a minor, with the written consent of a parent of that person;
 - (c) as authorized or required under this Act;
 - (d) in a proceeding under this Act;
 - (e) as required by law.

Prohibition and limitation – use of reserved titles

- 8 (1) If a regulation under this Act prescribes a title to be used exclusively by a particular class of registrant, a person other than a registrant in that class must not use the title, an abbreviation of the title or an equivalent of the title or abbreviation in another language,
- (a) to describe the person’s work,
 - (b) in association with or as part of another title describing the person’s work, or
 - (c) in association with a description of the person’s work.
- (2) A person other than a registrant must not use a reserved title or other name, title, description or abbreviation of a name or title, or an equivalent of a reserved title or other name or title in another language, in any manner that expresses or implies that the person is a registrant.

Prohibition on adverse actions

- 9 A registrant must not interrupt, discontinue or otherwise adversely affect, or threaten to interrupt, discontinue or otherwise adversely affect, the provision of a service or program in relation to which the registrant is employed or engaged to work with children, or in relation to which the registrant works with children as a volunteer or student, as a result of the following:
- (a) a complaint under section 13 [*complaints*];
 - (b) any other report to the registrar about the conduct of the registrant;
 - (c) a suggested or stated intention to make such a complaint or report.

Division 3 – Approved Programs

Approval of eligible programs

- 10 (1) On application by an institution in accordance with this section, the registrar may approve a program offered by the institution at a particular location or through distance education, or both, if the registrar is satisfied that
- (a) the program enables an applicant for registration to meet a competency, if any, prescribed for the applicable class of registrant,
 - (b) the institution, in relation to each approved program offered by the institution, is in compliance with the Act and the regulations or will comply with the Act and the regulations within a time established by the registrar, and
 - (c) any other requirements established by regulation in relation to the institution or program are met.
- (2) An application for program approval must
- (a) be given to the registrar in the form and manner required by the registrar, and
 - (b) include the information and records required by the regulations.
- (3) For the purpose of determining whether a program is eligible to be approved, the registrar may
- (a) require the applicant to provide any information and records the registrar considers necessary, and
 - (b) exercise the powers prescribed, if any.
- (4) The registrar may approve a program subject to a condition or limitation if the registrar is satisfied that the condition or limitation is necessary to ensure compliance with this Act or the regulations.

- (5) The registrar must give the institution written notice within 7 days after making any of the following decisions:
 - (a) a decision to refuse to approve a program;
 - (b) a decision to impose a condition or limitation on the approval of a program.
- (6) A notice under subsection (5) must include
 - (a) the registrar's reasons for the decision to which the notice relates, and
 - (b) information about any right to request reconsideration.
- (7) The registrar must cancel the approval of a program if the registrar receives either
 - (a) a written request for cancellation from the institution offering the program, or
 - (b) written notice that the program is no longer operating.

Duty of institutions to notify registrar

- 11** (1) An institution offering an approved program must give the registrar written notice within 30 days after either of the following events:
 - (a) a change is made to the institution's contact information;
 - (b) an action that affects the approved program is taken as a result of a finding made by an entity with regulatory responsibility over the institution.
- (2) An institution offering an approved program must give the registrar written notice at least 90 days before making any of the following changes:
 - (a) a change in the location at which the approved program is offered;
 - (b) beginning or ceasing to offer the approved program through distance education, in whole or in part;
 - (c) if the approved program is offered in whole or in part through distance education, a significant change to the manner in which the approved program is offered;
 - (d) a change in the curriculum for the approved program, if the change is related to a competency established under this Act;
 - (e) a change in any other matter that is prescribed.

PART 3 – COMPLIANCE AND ENFORCEMENT

Division 1 – Inspections, Complaints and Investigations

Inspections by registrar

- 12** (1) For the purposes of conducting an inspection to ensure compliance with this Act or the regulations, the registrar may, subject to subsection (2), do any of the following during regular business hours of an institution offering an approved program:
- (a) enter that part of any premises in which the institution offers an approved program;
 - (b) require the institution to provide information that relates to an approved program;
 - (c) require the institution to produce or provide access to records that relate to an approved program;
 - (d) make copies of records referred to in paragraph (c);
 - (e) for the purpose of making copies, remove from the premises records referred to in paragraph (c);
 - (f) if an approved program is offered, in whole or in part, through distance education, require the institution to provide access to the approved program;
 - (g) take photographs or make other records;
 - (h) interview the following:
 - (i) a person who administers or delivers the approved program;
 - (ii) students who are enrolled in the approved program.
- (2) The registrar must not, when conducting an inspection under subsection (1), enter premises occupied as a residence without the consent of the occupier, except under the authority of a warrant issued under subsection (3).
- (3) On being satisfied by evidence on oath that entry into a place is necessary for any purpose relevant to the administration of this Act or the regulations, a justice may issue a warrant authorizing an individual named in the warrant to enter the place in accordance with the warrant in order to exercise the powers referred to in subsection (1) (a) to (h).
- (4) The registrar may make an application for a warrant under subsection (3) without notice to any person.

Complaints

- 13** (1) A complaint against a registrant or in respect of an approved program
- (a) may be made to the registrar, and
 - (b) subject to subsection (2), must be in writing.
- (2) The registrar may waive the requirement that a complaint be in writing if the registrar is satisfied that it is in the public interest to do so.

Investigations by registrar

- 14** (1) Subject to subsection (2), the registrar must investigate a complaint made under section 13.
- (2) The registrar may refuse to investigate a complaint or stop investigating a complaint in prescribed circumstances or if, in the opinion of the registrar, any of the following apply:
- (a) the investigation serves no useful purpose or cannot reasonably be conducted because of the length of time between the date that the facts on which the complaint is based arose and the date the registrar receives the complaint;
 - (b) the complaint is frivolous, vexatious or trivial or not made in good faith;
 - (c) the investigation is not necessary in order to consider the complaint;
 - (d) there is no reasonable prospect that the complaint will be substantiated;
 - (e) the complaint concerns a matter over which the registrar has no jurisdiction;
 - (f) the substance of the complaint has been appropriately dealt with in another proceeding;
 - (g) the complainant has, in accordance with the regulations, withdrawn or abandoned the complaint.
- (3) The registrar may conduct an investigation for the purposes of ensuring compliance with this Act and the regulations, whether or not the registrar has received a complaint.
- (4) If the registrar initiates an investigation under this section, subject to the regulations, the registrar must notify the registrant or institution to which the investigation relates.
- (5) A registrant, or an institution offering an approved program, must cooperate with an investigation under this section, including by providing information or records requested by the registrar.

- (6) An individual who is no longer a registrant must cooperate with an investigation under this section, including by providing information or records requested by the registrar, if
 - (a) the individual was a registrant at the time the matter being investigated arose, and
 - (b) the individual is the subject of the investigation or a witness in relation to the matter being investigated or is likely to have information about the matter.
- (7) An institution that no longer offers an approved program must cooperate with an investigation, including by providing information or records requested by the registrar, if
 - (a) the institution offered an approved program at the time the matter being investigated arose, and
 - (b) the institution or the approved program is the subject of the investigation or the institution is likely to have information about the matter being investigated.

Investigation powers of registrar

- 15**
- (1) Subject to any regulations, in an investigation, the registrar may consider any matter the registrar considers relevant, including, without limitation, the following:
 - (a) if the investigation relates to a registrant, a finding of, or action taken in response to, any other investigation by a person or entity if that finding or action relates to the individual who is the registrant;
 - (b) if the investigation relates to an approved program, a finding of, or action taken in response to, any other investigation by a person or entity if that finding or action relates to the approved program or the institution offering the approved program.
 - (2) The registrar may continue and complete an investigation despite any of the following, as applicable:
 - (a) the expiry, suspension or cancellation of an individual's registration;
 - (b) the suspension or cancellation of a program's approval.
 - (3) On application by the registrar, the Supreme Court may make an order requiring a person to disclose to the registrar information or records in the custody or control of the person if the court is satisfied that the information or records are reasonably required by the registrar to determine whether an individual is eligible to remain registered.

Registrar required to return records

- 16** Within a reasonable time after completing an investigation or inspection, the registrar must return an original record obtained by the registrar during the investigation or inspection.

Division 2 – Administrative Actions

Actions relating to registration

- 17** (1) This section applies if the registrar determines that a registrant has done any of the following:
- (a) contravened a provision of this Act or the regulations;
 - (b) failed to comply with a condition of, or limitation on, the registrant's registration;
 - (c) failed to meet or comply with a requirement or standard established under this Act in respect of the class of registrants in which the registrant is registered;
 - (d) contravened a provision of an enactment of British Columbia, another province of Canada or Canada that has, or could be considered to have, as one of its objects the protection of the health, safety or well-being of a child;
 - (e) engaged in conduct that is, or may be, detrimental to the health, safety or well-being of a child.
- (2) After giving a registrant at least 30 days' written notice of a determination under subsection (1), the registrar may, subject to subsection (4), take one or more of the following actions:
- (a) suspend the registrant's registration;
 - (b) cancel the registrant's registration;
 - (c) impose or vary a condition or limitation on the registrant's registration;
 - (d) in the case of a suspension under paragraph (a), impose a condition on the lifting of the suspension or direct that the suspension be lifted on a date specified in the notice;
 - (e) in the case of a cancellation under paragraph (b), impose a condition on the eligibility of the individual to reapply for registration.
- (3) If, under subsection (2), the registrar cancels the registration of an individual, the individual may not reapply for registration for a period of 2 years after the date the cancellation takes effect.
- (4) A condition or limitation may be imposed or varied under subsection (2) (c), (d) or (e) only if the condition or limitation is necessary to ensure the health, safety or well-being of a child or to ensure compliance with this Act or the regulations.

- (5) Subject to subsection (6), the registrar
 - (a) must take reasonable steps to notify the following of an action taken under subsection (2):
 - (i) a person who employs the registrant, or engages the registrant under a contract of service, to work with children;
 - (ii) a person on whose behalf a registrant works with children in the person's capacity as a volunteer or student, and
 - (b) may notify an institution of an action taken under subsection (2) if the registrant in respect of whom the action is taken is enrolled in an approved program offered by the institution.
- (6) A notification under subsection (5) may be made only after one of the following:
 - (a) if no request for reconsideration is made under section 21 [*reconsiderations*] in relation to the action taken, the date on which the time for requesting the reconsideration expires;
 - (b) in any other case, the date an appeal under section 22 [*appeals to board*] in relation to the action is decided or, if no appeal is made, the date on which the time for appealing expires.
- (7) If the registrar notifies a person referred to in subsection (5) (a) (i) or (ii) or (b) of an action taken under subsection (2) (a), (c) or (d), the registrar must take reasonable steps to notify the person if the action is subsequently reversed, varied or, in the case of a suspension, lifted.

Extraordinary actions relating to registration

- 18**
- (1) If the registrar has reasonable grounds to believe that a registrant poses an immediate risk to the health, safety or well-being of a child, the registrar may, without giving notice to the registrant, take one or more of the following actions:
 - (a) suspend the registrant's registration;
 - (b) subject to subsection (4), impose or vary a condition or limitation on the registrant's registration.
 - (2) If the registrar takes an action under subsection (1),
 - (a) the registrar must, as soon as practicable after taking the action, give the registrant written notice of the action taken,
 - (b) the registrar must take reasonable steps to notify the following of the action taken:
 - (i) a person who employs the registrant, or engages the registrant under a contract of service, to work with children;
 - (ii) a person on whose behalf a registrant works with children in the person's capacity as a volunteer or student, and

- (c) the registrar may notify an institution of the action taken if the registrant is enrolled in an approved program offered by the institution.
- (3) If the registrar notifies a person referred to in subsection (2) (b) (i) or (ii) or (c) of an action taken under subsection (1), the registrar must take reasonable steps to notify the person if the action is subsequently reversed, varied or, in the case of a suspension, lifted.
- (4) A condition or limitation may be imposed or varied under subsection (1) (b) only if the condition or limitation is necessary to ensure the health, safety or well-being of a child.

Actions relating to approved programs

- 19**
- (1) This section applies if the registrar makes any of the following determinations in relation to an institution offering an approved program:
 - (a) the institution has contravened a provision of this Act or the regulations;
 - (b) the institution has failed to comply with a condition of, or limitation on, the approval of the program;
 - (c) the approved program will no longer enable an applicant for registration to meet a competency, if any, prescribed for the applicable class of registration;
 - (d) the approved program or the institution, or both, have failed to meet or comply with a requirement established under this Act.
 - (2) After giving an institution at least 30 days' written notice of a determination under subsection (1), the registrar may, subject to subsection (3), take one or more of the following actions in relation to an approved program offered by the institution:
 - (a) suspend the approval of the program;
 - (b) cancel the approval of the program;
 - (c) impose or vary a condition or limitation on the approval of the program;
 - (d) in the case of a suspension under paragraph (a), impose a condition on the lifting of the suspension or direct that the suspension be lifted on a date specified in the notice;
 - (e) in the case of a cancellation under paragraph (b), impose a condition on the eligibility of the institution to reapply for approval.
 - (3) A condition or limitation may be imposed or varied under subsection (2) (c), (d) or (e) only if the condition or limitation is necessary to ensure compliance with this Act or the regulations.

Notices of actions relating to registration or approval

- 20** A notice under any of sections 17 (2) [*actions relating to registration*], 18 (2) (a) [*extraordinary actions relating to registration*] or 19 (2) [*actions relating to approved programs*] must include the following information:
- (a) the registrar’s reasons for the decision to which the notice relates;
 - (b) the date on which the decision takes effect;
 - (c) information about any right to request reconsideration.

PART 4 – RECONSIDERATIONS AND APPEALS

Reconsiderations

- 21** (1) An individual or an institution may request the registrar to reconsider any of the following decisions, as applicable:
- (a) a refusal under section 5 [*registration of eligible individuals*] to register the individual;
 - (b) a decision under section 5 to impose or vary a condition or limitation on the individual’s registration;
 - (c) a refusal under section 10 [*approval of eligible programs*] to approve a program offered, or intended to be offered, by the institution;
 - (d) a decision under section 10 to impose a condition or limitation on the approval of a program offered, or intended to be offered, by the institution;
 - (e) a decision to take an action under section 17 (2) [*actions relating to registration*] or 18 (1) [*extraordinary actions relating to registration*] in relation to the individual;
 - (f) a decision to take an action under section 19 (2) [*actions relating to approved programs*] in relation to an approved program offered by the institution.
- (2) The request for reconsideration must
- (a) be in writing and made in the form and manner required by the registrar,
 - (b) be given to the registrar within 30 days after the date the notice of the decision is received, and
 - (c) include the reasons that the registrar should reconsider the decision.
- (3) On receipt of a request for reconsideration, the registrar must
- (a) consider the matter,
 - (b) subject to subsection (4), confirm, reverse or vary the decision or, if the registrar requires additional time to consider the matter, delay the implementation of the decision, and

- (c) as soon as practicable, give the person who requested the reconsideration written notice of the result of the reconsideration.
- (4) Before delaying the implementation of a decision under subsection (3) (b), the registrar must be satisfied that doing so will not be detrimental to the health, safety or well-being of a child.
- (5) A notice given under subsection (3) (c) must include the registrar's reasons for the decision on the reconsideration and information about any right of appeal.

Appeals to board

- 22**
- (1) A person may appeal to the board a decision of the registrar under section 21 (3) within 30 days after the date on which the person receives notice of the decision.
 - (2) An appeal to the board must be
 - (a) made in writing and in the form specified by the board, and
 - (b) accompanied by any fee prescribed under the *Community Care and Assisted Living Act* for the purpose of initiating an appeal to the board.
 - (3) If the board grants the appeal, the fee paid under subsection (2) (b) to initiate the appeal must be remitted to the appellant.
 - (4) The registrar is a party to an appeal under this section.
 - (5) Sections 29 (6), (11) and (12) [*appeals to the board*] and 31.1 [*exclusive jurisdiction of board*] of the *Community Care and Assisted Living Act* apply in relation to an appeal under this section.

PART 5 – GENERAL

Division 1 – Miscellaneous

Other prohibitions

- 23**
- (1) A person must not hinder, obstruct or interfere with the registrar in the exercise of a power or performance of a duty under this Act.
 - (2) A person who is authorized or required under this Act to provide information or a record to the registrar must not
 - (a) provide false or misleading information or records, or
 - (b) include false or misleading information in a record.
 - (3) A person must not withhold, conceal or destroy any information or record relevant to an investigation or otherwise required by the registrar to administer this Act or the regulations.

Exemptions

- 24** (1) The registrar may exempt a person or a program from a prescribed requirement of this Act or the regulations if the registrar is satisfied that
- (a) the exemption will not pose or increase a risk to the health, safety or well-being of a child, and
 - (b) any conditions established by regulation are met.
- (2) The registrar may impose a condition or limitation on an exemption under subsection (1) if the registrar is satisfied that the condition or limitation is necessary for either or both of the following purposes:
- (a) to ensure the health, safety or well-being of a child;
 - (b) to ensure a person's compliance with this Act or the regulations.
- (3) The registrar may cancel an exemption from a requirement by giving reasonable notice in writing to one of the following, as applicable:
- (a) if the exemption applies to a person, to the person;
 - (b) if the exemption applies to a program, to the institution offering the program.

Information-sharing agreements

- 25** (1) For the purposes of this section, “**information-sharing agreement**” means a data-matching or other agreement to provide or exchange information related to
- (a) the administration of this Act and the regulations, or
 - (b) the administration of an enactment of Canada or a province other than British Columbia, the purpose of which is to regulate individuals who are, or have applied to be, the equivalent of a registrant under this Act.
- (2) Subject to subsection (3), the minister may enter into an information-sharing agreement with a regulatory authority, as defined in the *Labour Mobility Act*, only with the prior approval of the Lieutenant Governor in Council.
- (3) The prior approval of the Lieutenant Governor in Council is not required if the regulatory authority is a public body as defined in the *Freedom of Information and Protection of Privacy Act*.

Deemed receipt of records

- 26** If, under this Act, a notice or other record is authorized or required to be given to a person by the registrar, the record is deemed to have been received by the person as follows:
- (a) if the record is sent by ordinary mail or registered mail, 10 days after the record is sent by mail to the last known address of the person according to the records of the registrar;

- (b) if the record is sent by email or fax, the day the record is sent to the last known email address or fax number of the person according to the records of the registrar;
- (c) if the record is sent by another communication method agreed to by the person and the registrar, the day the record is sent by that agreed method.

Evidence – copies of records

- 27 A record certified by the registrar to be a copy of a record obtained by the registrar under this Act is evidence of the nature and content of the original.

Division 2 – Offences

Offences

- 28 A person who contravenes any of the following commits an offence:
- (a) section 7 (2) [*duty of confidentiality*];
 - (b) section 8 (1) or (2) [*prohibition and limitation – use of reserved titles*];
 - (c) section 23 (1), (2) or (3) [*other prohibitions*].

Corporate liability for offence

- 29 If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits that offence, whether or not the corporation is prosecuted or convicted.

Section 5 of *Offence Act* does not apply

- 30 Section 5 of the *Offence Act* does not apply to this Act or the regulations.

Limitation period for prosecuting

- 31 The time limit for laying an information for an offence under this Act is 2 years after the date that the facts on which the information is based arose.

Division 3 – Regulations

General regulation powers

- 32 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations respecting any matter for which regulations are contemplated by this Act.

- (3) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:
- (a) define a word that is used but not defined in this Act;
 - (b) delegate a matter to a person;
 - (c) confer a discretion on a person;
 - (d) establish or define classes of persons, places, things or circumstances;
 - (e) make different regulations for different persons, places, things or circumstances or for different classes of persons, places, things or circumstances.

Regulations in relation to registration

- 33** Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting registration, including, without limitation,
 - (i) establishing the education, training, experience and other requirements that an individual must meet to be registered, and
 - (ii) establishing the circumstances in which an individual is disqualified from being registered in a particular, or any, class of registrant;
 - (b) respecting applications for registration and the information and records to be supplied in support of such applications;
 - (c) respecting renewals and the expiry of registrations;
 - (d) respecting the powers of the registrar to determine eligibility for registration;
 - (e) respecting practice standards and other requirements that registrants must meet or comply with to remain registered;
 - (f) respecting the registration of minors.

Regulations in relation to program approval

- 34** Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations as follows:
- (a) for the purposes of paragraph (d) of the definition of “institution” in section 1 [*definitions*], respecting classes of entities;
 - (b) respecting approvals of programs, including, without limitation,
 - (i) establishing the competencies that a program must develop in an individual to enable the individual to qualify for registration in a particular class of registrants, and
 - (ii) establishing the requirements that a program, and an institution offering a program, must meet;

- (c) respecting applications for approval of programs and the information and records to be supplied in support of such applications;
- (d) respecting the powers of the registrar to determine eligibility for approval;
- (e) respecting the requirements that an approved program must meet to remain approved;
- (f) respecting the requirements that an institution offering an approved program must meet or comply with for the program to remain approved;
- (g) for the purposes of section 11 (2) (e) [*duty of institutions to notify registrar*] prescribing additional matters about which institutions must notify the registrar and establishing the times by which those notifications must be made.

Other regulations

35 Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations as follows:

- (a) specifying the information that must or may be included in the registry, including, without limitation, information about the findings of an investigation under this Act;
- (b) respecting the use or disclosure of information obtained by a person while acting in the person’s capacity as a registrant;
- (c) respecting notice, withdrawal and abandonment of complaints;
- (d) respecting investigations and the information and records to be supplied in support of investigations;
- (e) respecting the publication of reports on investigations, including, without limitation, the information that may be published;
- (f) respecting the records to be kept by registrants and former registrants and by institutions that offer or offered approved programs;
- (g) establishing conditions for the purposes of section 24 (1) (b) [*exemptions*];
- (h) respecting the registrar.

**PART 6 – TRANSITIONAL PROVISIONS AND
CONSEQUENTIAL AMENDMENTS**

Division 1 – Transitional Provisions

Transition – definitions

36 In this Division:

“**certificate**” has the same meaning as in the licensing regulation;

“**director**” has the same meaning as in the licensing regulation;

“**licensing regulation**” means the Child Care Licensing Regulation, B.C. Reg. 332/2007, as it read immediately before the coming into force of this section.

Transition – director is registrar

- 37 On the coming into force of this section, the director is deemed to be the registrar as if the director had been designated under section 2 [*designation of registrar*] by the minister.

Transition – applications for certificates

- 38 (1) On the coming into force of this section, an application for a certificate made under the licensing regulation but in respect of which a determination has not been made is deemed to be an application for registration under section 5 [*registration of eligible individuals*] of this Act.
- (2) If the registrar is satisfied that the certificate would have been issued under the licensing regulation, despite section 5 of this Act, the registrar must register the applicant in the class of registrant that corresponds to the certificate.

Transition – deemed renewals

- 39 If an individual applies for registration within 5 years after the expiry of a certificate held by the individual, the application is deemed to be an application to renew the registration of the individual in the same class of registrant that corresponds to the certificate.

Transition – certificate holders are registrants

- 40 On the coming into force of this section, a holder of a valid certificate is, until the date on which the certificate would have expired under the licensing regulation, deemed to be registered under this Act
- (a) in the class of registrants that corresponds to the holder’s certificate, and
 - (b) subject to any terms or conditions attached to the certificate as if the terms or conditions were conditions or limitations imposed on a registration under this Act.

Transition – application of *Criminal Records Review Act*

- 41 Sections 24.92 (1) and 24.93 (1) and (2) of the *Criminal Records Review Act*, as added by this Act, do not apply in relation to an individual who is deemed to be registered under this Act, until the individual subsequently applies for registration under this Act.

Transition – investigations

- 42 (1) On the coming into force of this section, an investigation commenced by the director in relation to a certificate of an individual continues as an investigation of the registrar under this Act as if the investigation were in relation to the registration of the individual.
- (2) An individual who no longer holds a valid certificate must cooperate with an investigation continued by the registrar, including by providing information or records requested by the registrar, if
- (a) the individual was the holder of a valid certificate at the time the matter being investigated arose, and
 - (b) the individual is the subject of the investigation or a witness in relation to the matter being investigated or is likely to have information about the matter.

Transition – cancelled certificates

- 43 An individual whose certificate was cancelled under the licensing regulation may not apply to be registered under section 5 for a period of 2 years after the date the cancellation took effect.

Transition – programs and institutions

- 44 On the coming into force of this section,
- (a) a college, university or other entity listed in Column 1 of Schedule D of the licensing regulation is deemed to be an institution as defined in this Act,
 - (b) a program referred to in section 25 (1) (b) [*early childhood educator certificate*] of the licensing regulation that is offered by an entity listed in Column 1 of Schedule D of the licensing regulation is deemed to be an approved program in relation to a class of registrant that corresponds to a certificate identified in Column 2 of Schedule D of the licensing regulation, and
 - (c) a program referred to in section 26 (c) [*special needs early childhood educator certificate and infant and toddler educator certificate*] of the licensing regulation that is offered by an entity listed in Column 1 of Schedule D of the licensing regulation is deemed to be an approved program in relation to a class of registrant that corresponds to a certificate identified in Column 3 or Column 4 of Schedule D of the licensing regulation.

Division 2 – Consequential Amendments

Business Practices and Consumer Protection Act

45 *Section 142.1 (2) of the Business Practices and Consumer Protection Act, S.B.C. 2004, c. 2, is amended by adding the following paragraph:*

(1.1) the *Early Childhood Educators Act*; .

Community Care and Assisted Living Act

46 *Section 8 of the Community Care and Assisted Living Act, S.B.C. 2002, c. 75, is repealed.*

47 *Section 29 (2) is amended*

(a) by striking out “a holder of a certificate under section 8, an applicant for a certificate under section 8,” and

(b) by adding “or” at the end of paragraph (b), by striking out “or” at the end of paragraph (c) and by repealing paragraph (d).

48 *Section 32 is amended*

(a) in subsection (1) by striking out “, a medical health officer or a member of the board” and substituting “or a medical health officer”,

(b) by adding the following subsection:

(1.1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against a member of the board or a person acting on behalf of or under the direction of a member of the board because of anything done or omitted

(a) in the performance or intended performance of any duty under this Act or the *Early Childhood Educators Act*, or

(b) in the exercise or intended exercise of any power under this Act or the *Early Childhood Educators Act*. , **and**

(c) by repealing subsection (2) and substituting the following:

(2) Subsections (1) and (1.1) do not apply to a person referred to in those subsections in relation to anything done or omitted by that person in bad faith.

49 Section 34 is amended

- (a) in subsection (2) (g) by striking out “their employees and managers” and substituting “for the employees and managers of licensees in their capacity as employees or managers”,**
- (b) by repealing subsection (2) (h) and (h.1),**
- (c) in subsection (2) (v) by adding “or” at the end of subparagraph (i) and by repealing subparagraphs (iii) and (iv), and**
- (d) by repealing subsection (6).**

Criminal Records Review Act

50 Section 1 of the Criminal Records Review Act, R.S.B.C. 1996, c. 86, is amended by adding the following definition:

“ECE registrar” means the registrar designated under section 2 of the *Early Childhood Educators Act*; .

51 Section 4 is amended

- (a) in subsection (2) (b) by adding the following subparagraph:**
 - (vii) the ECE registrar, if the individual is a registrant or applicant for registration under the *Early Childhood Educators Act*. , **and**
- (b) in subsection (5) by adding the following paragraph:**
 - (f) the ECE registrar, if the individual is a registrant or applicant for registration under the *Early Childhood Educators Act*.

52 Section 5 (8) is amended by adding the following paragraph:

- (f) the ECE registrar, if the individual is a registrant or applicant for registration under the *Early Childhood Educators Act*.

53 Section 6 (1) is amended by adding the following paragraph:

- (h) the ECE registrar, if the individual is a registrant or applicant for registration under the *Early Childhood Educators Act*.

54 *The following Part is added:*

PART 5.2 – REGISTERED EARLY CHILDHOOD EDUCATORS

Definition

24.91 In this Part, except in section 24.92 (3), “Act” means the *Early Childhood Educators Act*.

General duty of ECE registrar

- 24.92** (1) Subject to subsection (2), the ECE registrar must ensure that every individual who applies for registration under the Act and every individual who is registered under the Act undergoes
- (a) a criminal record check, or
 - (b) a criminal record check verification.
- (2) The ECE registrar may require an individual who applies for registration, or who is registered, under the Act to undergo a criminal record check even if the individual could undergo a criminal record check verification.
- (3) The ECE registrar must inform individuals of the requirements of this Act if those individuals are applicants for registration, or registered, under the *Early Childhood Educators Act*.

Applicants for registration

- 24.93** (1) Before an individual is registered under the Act, the individual must provide to the ECE registrar a criminal record check authorization or a criminal record check verification authorization, as applicable.
- (2) The ECE registrar must not register an applicant for registration under the Act unless the applicant has complied with subsection (1).

Existing registrants

- 24.94** (1) An individual who is registered under the Act must
- (a) undergo a criminal record check at least once every 5 years, and
 - (b) provide to the ECE registrar a criminal record check authorization or a criminal record check verification authorization, as applicable, at least once every 5 years after the date on which the individual provided the individual’s last criminal record check authorization or criminal record check verification authorization to the ECE registrar.

- (2) If an individual who is registered under the Act does not provide a criminal record check authorization or criminal record check verification authorization as required by subsection (1) or section 24.97,
 - (a) the individual must not work with children until the individual has provided the criminal record check authorization or criminal record check verification authorization, as applicable, and
 - (b) the ECE registrar must investigate or review the registration of the individual and take appropriate action, if any, under the Act.
- (3) Without limiting any duty of the ECE registrar under section 17 (5) (a) or 18 (2) (b) of the Act, if an individual who is registered under the Act carries on the individual's occupation as an employee, the ECE registrar must take reasonable steps to notify the individual's employer that the ECE registrar is taking action under subsection (2) (b) of this section.

No portable criminal record check

24.95 If the registrar determines, in a criminal record check verification under Part 2.1, that an individual does not have a portable criminal record check because the individual has never undergone a criminal record check or the individual underwent a criminal record check more than 5 years before the date of the criminal record check authorization, the following apply:

- (a) if the individual is an applicant for registration under the Act, the ECE registrar must ensure that the individual is not registered under the Act until the individual provides a criminal record check authorization;
- (b) if the individual is registered under the Act, the individual must not work with children until the individual provides a criminal record check authorization.

Effect of finding of risk – working with children

24.96 (1) If the deputy registrar determines, in a criminal record check under Part 2, that an outstanding charge or conviction indicates that the individual presents a risk of physical or sexual abuse to children and unless that determination is overturned by the registrar under section 5, the ECE registrar must investigate or review the individual's registration or application for registration and take appropriate action under the Act.

- (2) If the registrar determines, in a criminal record check verification under Part 2.1, that an individual does not have a portable criminal record check because a criminal record check in respect of the same individual carried out within 5 years of the date of the criminal record check verification authorization resulted in a determination that the individual presents a risk of physical or sexual abuse to children, the ECE registrar must investigate or review the individual's registration or application for registration and take appropriate action under the Act.

- (3) Without limiting any duty of the ECE registrar under section 17 (5) (a) or 18 (2) (b) of the Act, if an individual who is registered under the Act carries on the individual's occupation as an employee, the ECE registrar must take reasonable steps to notify the individual's employer that the ECE registrar is taking action under subsection (2) of this section.
- (4) An employer who is notified under subsection (3) must ensure that the employee does not work with children.

New convictions or outstanding charges

- 24.97** (1) If an individual who is registered under the Act is charged with or convicted of a specified offence subsequent to a criminal record check or criminal record check verification, the individual must promptly report the charge or conviction to the ECE registrar and provide to the ECE registrar a criminal record check authorization for a further criminal record check.
- (2) When the ECE registrar becomes aware that an individual who is registered under the Act has an outstanding charge for, or has been convicted of, a specified offence, the ECE registrar must require the individual to provide a criminal record check authorization for a further criminal record check.
 - (3) If an individual who is registered under the Act carries on the individual's occupation as an employee, the ECE registrar must take reasonable steps to notify the individual's employer that the ECE registrar is taking action under subsection (2) of this section and that the action is with respect to a risk to children.
 - (4) An employer who is notified under subsection (3) must ensure that the employee does not work with children until the employee has provided a criminal record check authorization for a further criminal record check under subsection (1) or (2).

55 Section 28 (1) is repealed and the following substituted:

- (1) A person who contravenes any of the following provisions is guilty of an offence and is liable to a fine of up to \$5 000:
 - (a) in Part 2, section 6 (1), (2) or (3);
 - (b) in Part 3, section 8 (1) or (2) (b), 9 (2), 10 (2) (a) or (b), 10.1 (a) or (b), 11 (1) (a) or (b) or (2) (a) or (b), 11.1 (1) (a) or (b) or (2) (a) or (b) or 12 (2) or (3);
 - (c) in Part 4, section 13 (1), 14 (2), 15 (2) (a) or (b) or (3), 15.1 (a) or (b), 16 (1), (1.1), (2) or (3) or 17 (2), (3) or (4);
 - (d) in Part 4.1, section 17.1 (1), 17.2 (2), 17.21, 17.3 (1) or (2), 17.31 (1) or (2) or 17.4 (2);
 - (e) in Part 4.2, section 17.5 (1), 17.6 (2), 17.7 (2) (a) or (b), 17.71 (a) or (b), 17.8 (1) or (2) or 17.9 (2);

- (f) in Part 5, section 19 (1), 20 (2), 21 (2), 21.1 (a) or (b), 22 (1) (a) or (b), (1.1) or (2) or 23 (2);
- (g) in Part 5.1, section 24.3 (1) or (2) (b), 24.4 (2), 24.5 (3) (a) or (b), 24.6, 24.7 (1) or (2), 24.8 (1) or (2) or 24.9 (2);
- (h) in Part 5.2, section 24.92 (1), 24.93 (2), 24.94 (2) (a) or (b) or (3), 24.95 (a) or (b), 24.96 (1), (2), (3) or (4) or 24.97 (2), (3) or (4);
- (i) in Part 6, section 28.1 (2).

56 *Section 28.1 (1) is amended by striking out “19 or 24.3” and substituting “19, 24.3 or 24.92”.*

Commencement

57 This Act comes into force by regulation of the Lieutenant Governor in Council.