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CHAPTER 381

CHILD CARE BOARD

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SCHEDULE

CHAPTER 381
CHILD CARE BOARD

1981-34.

1984-13.

1996-23.

An Act to make better provision for the care and protection of children.

Commencement.

1983/147.

[1st October, 1983]

Short title.

Citation

1. This Act may be cited as the Child Care Board Act.

Definitions.

Interpretation

2. For the purposes of this Act

- (a) "Board" means the Child Care Board established by section 3;
- (b) "child" means a person under the age of 18 years;
- (c) "child care centre"
 - (i) means a place where children are cared for, and
 - (ii) includes a children's home, day nursery and reception centre;
- (d) "foster child" means a child under the age of 18 years whose care and maintenance is being undertaken for a period exceeding 3 months by a person who is not a relative or guardian of the child;
- (e) "foster home" means a private home approved by the Board for the placement of a child who is in the care of the Board; and
- (f) "foster parent" means the person undertaking the care and maintenance of a foster child.

Administration

Child Care Board

3. (1) The Child Care Board is established by this Act.

Cap. 1.

(2) Subject to this Act, section 21 of the Interpretation Act applies to the Board.

Schedule.

(3) The Schedule has effect with respect to the constitution of the Board and otherwise in relation thereto.

Functions of Board.

4. The functions of the Board are

- (a) to provide and maintain child care centres for children in need of care and protection;
- (b) to provide counselling and other services
 - (i) for children in need of care and protection, and
 - (ii) for the parents and guardians of those children;
- (c) to place children in foster homes;
- (d) to supervise foster children and foster parents; and
- (e) such other functions as the Minister directs.

Parental rights and duties.**Cap. 212.**

5. (1) In this section,

"parent", except in subsection (2)(a), includes a guardian; and "parental rights and duties" means the rights and duties that by law a parent has in relation to a child, but does not include the right to consent or withhold consent to the making of an order under the *Adoption Act*.

(2) The Board may apply to the High Court to have the parental rights and duties in relation to a child in the care of the Board vested in the Board where

- (a) the parents of the child are dead and he has no guardian; or
- (b) the parents of the child
 - (i) have abandoned him, or
 - (ii) suffer from a mental or physical disability, whether permanent or not, that renders them incapable or unfit to have the care of the child,

- (iii) are of such habits or mode of life as to be unfit to have the care of the child, or
- (iv) have so consistently failed without reasonable cause to discharge their parental rights and duties as to make them unfit to have the care of the child.

(3) In making a determination under this section the judge must have regard.

- (a) to the interests of the child, and
- (b) any other matter the judge considers appropriate.

(4) The parental rights and duties of the Board in respect of a child cease where

- (a) an adoption order is made in relation to the child, or (b) the court makes an order respecting the guardianship of the child.

(5) Where a child has been in the care of the Board for at least 12 months and during that time the whereabouts of the parents of the child remained unknown, then, for the purposes of this section, the parents shall be deemed to have abandoned the child.

(6) Subsection (5) applies, whether or not the child was in the custody of the Board before the 1st October, 1983.

Staff

6. (1) Subject to this Act, the Board may appoint such officers and other employees as are necessary for the proper performance of its duties under this Act.

(2) The Board may not, without the prior approval of the Minister

- (a) assign a salary in excess of such sum as the Minister determines and notifies in writing to the Board in respect of any office established by the Board, or
- (b) appoint a person to an office established by the Board to which a salary is assigned by the Minister under paragraph (a).

(3) Spent.

Foster Care

Foster parent.

7. (1) A person who wishes to maintain a foster child shall give written notification to the Board at least 14 days before the person receives the child.

(2) Notwithstanding subsection (1) where a person receives a foster child in an emergency the person shall, not less than 7 days after receiving the child, give written notification to the Board of the fact.

(3) Spent.

Life insurance.

8. For the purposes of any law relating to life insurance, a foster parent has no interest in the life of a foster child.

Leaving foster home

9. Where a foster child

- (a) leaves a foster home, or
- (b) is unlawfully taken from a foster home,

the foster parent shall immediately notify the Board.

Agreement.

10. (1) The parent of a child may enter into an agreement with the Board

- (a) for the placing of the child into the care and protection of the Board,
- (b) for the supervision of the child by the Board, or
- (c) for the provision by the Board of services required to meet the special needs of the child.

(2) An agreement referred to in subsection (1) may be for a period of 6 months or such longer period as the Board and the parent consider appropriate.

(3) An agreement under this section expires on the 18th birthday of the child.

(4) Notwithstanding subsection (3), where a child is mentally or physically handicapped or is otherwise incapacitated, an agreement under this section may be for such period as the Board and the parent consider appropriate to the needs of the child.

Registration of Private Child Care Centre

Private child care centre.

11. In this Act,

- (a) "private child care centre" means a child care centre provided and maintained by a person other than the Board or the Government; and
- (b) "proprietor" in relation to a private child care centre means any person who maintains the centre.

Registration.

12. (1) Subject to this Act, no person shall keep in Barbados a private child care centre unless it is registered under this Act.

(2) For the purposes of this Act, the Board shall keep a register to be known as the Register of Private Child Care Centres, in which must be entered

- (a) the names of private child care centres registered under this Act, and
- (b) such particulars relating to private child care centres as the Board prescribes.

(3) An application under this Act for registration of a private child care centre

- (a) must be made by or on behalf of the proprietor.
- (b) must be made in the prescribed form, and
- (c) must contain such particulars and be accompanied by such documents as the Board prescribes.

(4) The Board may, on receipt of an application under this section, require the applicant to furnish such additional information and particulars as the Board considers relevant to the application, and the applicant must comply with the request.

Requirements for registration.

13. (1) The Board shall, as soon as practicable after it receives an application for the registration of a private child care centre, inspect the centre.

(2) Where the Board is satisfied that a private child care centre meets the prescribed requirements the Board shall register the centre.

(3) Where the Board registers a private child care centre, it shall, in writing, notify the applicant that the centre is registered.

(4) Registration of a private child care centre is subject to any condition the Board specifies.

(5) The Board may not register a private child care centre that does not meet the requirements for registration.

(6) Where the Board refuses to register or cancels the registration of a private child care centre the Board shall, in writing,

- (a) notify the applicant of the refusal or cancellation, as the case may be, and of the reasons therefor, in writing
- (b) inform the applicant that he has a right of appeal under section 13.

Cancellation of registration.

14. (1) The Board may, at any reasonable time, inspect private child care centres.

(2) The Board may cancel the registration of a private child care centre where this Act or the regulations are contravened in relation to the centre.

(3) Section 13(5) applies mutatis mutandis to this section.

Appeal

15. (1) Where the Board

- (a) refuses to register a private child care centre, or
- (b) cancels the registration of a private child care centre, the proprietor of the centre may appeal to the Minister against the refusal or cancellation, as the case may be.

(2) An appeal under subsection (1) must be made within 1 month after the refusal or cancellation of registration or such further period as the Minister allows.

(3) A decision of the Minister under this section is final.

*Financial***Expenses**

16. The expenses of the Board are to be defrayed out of

- (a) moneys voted by Parliament for the purpose,
- (b) moneys becoming payable to or vested in the Board, and
- (c) gifts to the Board from any person, organisation or body.

Application of moneys.

17. The Board shall apply its moneys for

- (a) the payment of its officers and employees,
- (b) the maintenance of its child care centres,
- (c) the making of grants to private child care centres, and (d) such other purposes as are necessary for the performance of its functions under this Act.

Accounts.

18. (1) The Board shall keep proper accounts and records of its activities.

(2) The accounts of the Board must be audited annually by an auditor appointed annually by the Board with the approval of the Minister.

(3) The Auditor-General may, at all reasonable times, and shall, on the direction of the Minister, carry out at any time an investigation into the accounts of the Board

Report.

19. (1) The Board shall, as soon as practicable after the end of each financial year, and in any event not later than 6 months after the end of the year, submit to the Minister a report containing, in respect of the Board,

- (a) a detailed account of its activities during the preceding financial year; and
- (b) a statement of its audited accounts.

(2) Copies of the report and statement of accounts referred to in subsection (1) shall be laid in the House of Assembly and Senate and must be published in the Official Gazette.

*Miscellaneous***Regulations.**

20. The Board may, with the approval of the Minister make regulations

- (a) respecting foster children, foster homes and foster parents,
- (b) respecting the fostering of children,
- (c) respecting the admission of children to, and discharge of children from, child care centres,
- (d) respecting the premises, administration, management and staff of private child care centres,
- (e) respecting the fees payable in respect of children in the care and protection of the Board, and
- (f) prescribing anything that is authorised or required by this Act to be prescribed.

21. (1) A person is guilty of an offence who

- (a) personates a member of the Board or a member of the staff of the Board,
- (b) obstructs, insults or threatens any person referred to in paragraph (a) while that person is executing his duty under this Act,
- (c) fails to comply with section 9, or (d) contravenes section 12(1).

(2) A person is guilty of an offence who

- (a) induces or attempts to induce a child
 - (i) to leave a child care centre or a foster home,
 - (ii) to remain away from, or not to return to, a child care centre or a foster home, or
- (b) detains or harbours a child who has left a child care centre or a foster home.

(3) A person guilty of an offence under this section is liable to a fine of \$500, or imprisonment for 6 months, or both.

(4) Subsection (2) does not apply to the parent of the child.

Failure to report fostering.

22. Any person who contravenes section 7 is guilty of an offence and liable on summary conviction to a fine of \$50.

Exemption from duties and taxes.

23. Notwithstanding any other enactment, the Board is exempt from

- (a) the payment of customs duties and any other duties or taxes on goods imported for its own use;
- (b) the payment of any tax in respect of lands owned by the Board;
- (c) the payment of stamp duty on its documents; and
- (d) the payment of income tax and any other tax imposed on income or profits of persons.

24. (1) Voluntary child care institutions registered under the former Act continue to function as if registered under this Act as private child care centres.

(2) In this section and section 25 the "former Act" means the Child Care Board Act in force immediately before 1st October, 1983.

Existing appointments. 1984-13:

25. Any person who was immediately before 1st November, 1982 employed in the service of the Child Care Board established by the former Act shall be deemed to have been appointed by the Board and shall continue to be employed on terms and conditions that are the same or no less favourable than those on which he was employed immediately before 1st October, 1983.

Savings of pension etc. 1996-23.**Cap. 25. L.N.1947/ 20.**

26. Where a public officer who has pensionable service is transferred to or becomes employed in the service of the Board, his service with the Board shall, whether or not there was a break in service, be aggregated with his service in the public service and his pension shall be calculated in accordance with the Pensions Act and the Pensions Regulations, 1947 as if all of his service was service in the public service.

SCHEDULE

(Section 3(3))

Constitution and Procedure of the Board

1984-13.

1. The Board consists of a chairman, a deputy chairman and not less than 6 and not more than 10 other members appointed by the Minister in writing.

2. Members of the Board, subject to paragraphs 3 and 5, hold office for 3 years, but are eligible for re-appointment.

3. A member may at any time resign his office by instrument in writing addressed to the chairman, who shall forthwith forward the instrument to the Minister, and upon the receipt by the chairman of the instrument the member ceases to be a member of the Board.

4. (1) The chairman may at any time resign his office by instrument in writing addressed to the Minister, and the chairman's resignation takes effect upon the receipt of the instrument by the Minister.

(2) Where the chairman ceases to be chairman, he also ceases to be a member. 5. The Minister may by instrument in writing at any time revoke the appointment of the chairman or any member if the Minister thinks it expedient so to do.

6. Any member who is absent from Barbados without leave of the Minister, or fails without reasonable excuse to attend 3 consecutive meetings of the Board, ceases to be a member of the Board.

7. Where there is a vacancy in the membership of the Board the Minister may fill the vacancy.

8. The Board shall meet at least once a month for the transaction of business at such places and times and on such days as the Board determines.

9. The chairman, or in the absence of the chairman, the deputy chairman, may at any time call a special meeting, and shall call a special meeting within 7 days of a requisition for that purpose addressed to him in writing by at least 3 members of the Board.

10. The chairman, or in his absence the deputy chairman, is to preside at all meetings of the Board.

11.4 members of the Board form a quorum.

12. In the absence of both the chairman and the deputy chairman, the members present and constituting a quorum must elect one of their number to preside at the meeting.

13. The decisions of the Board are to be by a majority of votes, and in addition to an original vote, in any case in which the voting is equal the chairman, deputy chairman or other member presiding at the meeting has a second or casting vote.

14. The appointment, removal, death or resignation of the chairman or any member must be notified in the Official Gazette.

15. The Board may appoint a committee for any function of the Board that in its opinion would be better regulated or managed by a committee; and the Board may delegate any of its functions to such a committee.

16. Members of the Board are eligible for such remuneration as the Minister determines.

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