

No. S 37

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Article 83(3))

CHILD CARE CENTRES ORDER, 2006

ARRANGEMENT OF SECTIONS

Section

1. Citation.
2. Interpretation.
3. Child care centres to be licensed.
4. Application for licence.
5. Duration of licence.
6. Revocation and suspension of licence.
7. Appeal.
8. Display of licence.
9. Transfer of licence.
10. Transfer or revocation of licence upon death of licensee.
11. Termination of licence where licensee disposes of child care centre.
12. Registers.
13. Inspection of child care centres.
14. Director may direct remedial measures.
15. Director may order cessation of use of premises as child care centre.
16. Offences by bodies corporate.
17. Evidence.
18. Exemptions.
19. Regulations.

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Article 83(3))

CHILD CARE CENTRES ORDER, 2006

In exercise of the power conferred by Clause (3) of Article 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation.

1. This Order may be cited as the Child Care Centres Order, 2006.

Interpretation.

2. In this Order, unless the context otherwise requires —

"child care centre" means any premises at which 5 or more children who are under the age of 3 years are habitually received for the purposes of care and supervision during part of the day or for longer periods;

"Director" means the Director of Community Development, and includes any person who is authorised by him to perform any of the duties or exercise any of the powers of the Director under this Order or any regulations made thereunder;

"licence" means a licence issued under this Order in respect of a child care centre;

"Minister" means the Minister responsible for children's matters;

"premises" includes any building, enclosure, ground or open air space.

Child care centres to be licensed.

3. (1) No person shall operate or take part in the management of a child care centre except under the authority of and in accordance with the terms and conditions of a licence issued by the Director.

(2) If a child care centre is not licensed or is used otherwise than in accordance with the terms and conditions of its licence, any person who operates or takes part in the management of the child care centre shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 2 years or both.

Application for licence.

4. (1) An application for the issue of a licence shall be in such form as the Director may require.

(2) On receipt of an application, the Director may issue a licence subject to such terms and conditions as he may think fit to impose.

(3) The Director may refuse to issue a licence if —

(a) he is not satisfied as to the character or fitness of the applicant to be the licensee of a child care centre or, where the applicant is a body corporate, as to the character or fitness of the members of the board of directors or committee or board of trustees or other governing body of the body corporate;

(b) for reasons connected with the situation, construction, accommodation, staffing or equipment, the premises to be used for the child care centre are not fit to be used for the purposes of a child care centre;

(c) the premises to be used as a child care centre do not comply with any requirements relating to the structure, fire precautions, health, sanitation and safety set out in regulations made under subsection (1) of section 19; or

(d) the child care centre would not be under the continuous personal management and supervision of a person of sufficient qualifications and experience to ensure the satisfactory operation of the child care centre.

(4) Where the Director refuses to issue a licence, he shall, if requested to do so by the applicant, state in writing the reasons for his refusal.

Duration of licence.

5. (1) On the issue of a licence, the licensee shall pay a fee of such amount as may be prescribed.

(2) A licence shall continue in force for a period of 2 years from the date of its issue or such shorter period as may be specified in the licence unless it has been previously revoked but may be renewed by the issue of a new licence.

Revocation and suspension of licence.

6. (1) The Director may revoke or suspend the licence of a person in respect of a child care centre —

(a) on any ground specified in subsection (3) of section 4 which would have entitled the Director to refuse an application for a licence in respect of that child care centre;

(b) if the licensee fails to comply with any direction given by the Director under section 14 or 15;

(c) if the child care centre has ceased to be operated as such or to exist;

(d) if the licensee has been convicted of an offence against this Order;
or

(e) on the ground that any term or condition specified in the licence has not been or is not being complied with.

(2) Before revoking or suspending a licence, the Director shall give notice to the licensee of the ground on which it is proposed to revoke or suspend the licence and shall afford the licensee an opportunity of showing cause why the licence should not be revoked or suspended.

Appeal.

7. Any person aggrieved by any decision of the Director under subsection (3) of section 4 or subsection (1) of section 6 may, within 30 days after notice of the decision is given to him, appeal to the Minister whose decision shall be final.

Display of licence.

8. (1) Every licensee shall cause his licence to be permanently displayed in some conspicuous place where it can readily be seen by all persons having access to the child care centre to which the licence relates.

(2) Every licensee who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding \$1,000 and to a further fine not exceeding \$100 for every day during which the offence continues after conviction.

Transfer of licence.

9. On an application in writing signed by the licensee and by the person to whom the licensee desires to transfer the licence, the Director may, if he thinks fit, either by way of endorsement on the licence or otherwise in writing, transfer the licence to that person, and thereupon that person shall become the licensee of the child care centre.

Transfer or revocation of licence upon death of licensee.

10. (1) If the licensee, or the sole surviving licensee, of a child care centre dies, his surviving spouse or any member of his family or any relative shall within 30 days of his death notify the Director of his death, and the Director may, if he thinks fit, either by way of endorsement on the licence or otherwise in writing, transfer the licence to a person nominated for the purpose by the executors or administrators of the deceased licensee, and thereupon that person shall become the licensee of the child care centre.

(2) Subject to subsection (4), until the licence is transferred in accordance with subsection (1) or unless the licence is revoked under subsection (3) or under section 6, the child care centre shall continue to be a licensed child care centre.

(3) If a licence is not transferred under subsection (1) within 3 months after the death of the licensee or of the sole surviving licensee, the Director may, by notice published in the *Gazette*, revoke the licence.

(4) If the Director is not notified of the death of the licensee or of the sole surviving licensee by the end of the period of 30 days of his death under subsection (1), the child care centre shall thereupon cease to be a licensed child care centre.

Termination of licence where licensee disposes of child care centre.

11. Subject to sections 9 and 10, every licence shall cease to have effect when the licensee ceases to be the owner or lessee of the child care centre to which the licence relates.

Registers.

12. (1) The Director shall cause to be kept and maintained a register of all licensed child care centres.

(2) Every licensee shall keep and maintain such register of children and staff as the Director considers necessary for carrying out the purposes of this Order.

Inspection of child care centres.

13. (1) The Director and any officer authorised by him may —

(a) at all reasonable times enter and inspect any child care centre or any premises which he has reason to suspect are used for the purposes of a child care centre;

(b) require any person taking part in the operation or management of a child care centre to produce any book, document or other article relating to the management of that child care centre or to any other activity in respect of the child care centre, or to furnish any information relating to such management or activity;

(c) remove for further examination any book, document or other article which he has reason to suspect is evidence of the commission of an offence against this Order, or is evidence of a ground for the revocation of the licence in respect of a child care centre; and

(d) do such other things as are necessary for the inspection of a child care centre.

(2) Any person who prevents or obstructs the Director or any officer authorised by him in the execution of his powers, or refuses to produce any book, document or other article upon being required under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding one year or both.

Director may direct remedial measures.

14. (1) The Director may, in respect of any licensed child care centre, by notice in writing, give such directions as he thinks necessary to ensure that —

(a) it is operated and managed satisfactorily;

(b) the welfare of the children attending it is promoted in a proper manner; and

(c) the provisions of this Order are complied with.

(2) A notice under subsection (1) shall —

(a) served upon the person licensed in respect of the child care centre; and

(b) specify a period of time within which the directions shall be complied with.

Director may order cessation of use of premises as child care centre.

15. (1) The Director may —

(a) if it appears to him that there is any danger or risk of danger to persons in any licensed child care centre; or

(b) if, in respect of any licensed child care centre, a direction given under section 14 is not complied with within the period of time specified in the notice served thereunder,

by order in writing direct that the licensed child care centre shall cease to be used as a child care centre for such period as he thinks fit or until further notice.

(2) An order under this section shall be served on the person licensed in respect of the child care centre and shall take effect from the date of the service thereof.

(3) It shall be sufficient service of an order under this section if —

(a) it is delivered personally to the person on whom it is to be served;

(b) it is sent by registered post to the last known address of that person; or

(c) a copy thereof is posted in a conspicuous place upon or in the child care centre to which it relates.

(4) Any person who fails to comply with an order served on him under this section shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding one year or both.

Offences by bodies corporate.

16. Where an offence under this Order committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who purported to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Evidence.

17. In any prosecution for an offence under this Order, if it is proved that any person did any act in connection with the organisation or operation of a child care centre, it shall be presumed, until the contrary is proved, that that person took part in the management of the child care centre.

Exemptions.

18. This Order shall not apply to —

(a) any child care centre maintained and controlled by the Government;

(b) any school which is registered under the Education Order, 2003 (S 59/03);

(c) such other child care centre as may be prescribed by the Minister.

Regulations.

19. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for any purpose for which regulations are required to be made under this Order including the prescription of fees and generally for carrying out the purposes and provisions of this Order.

(2) Regulations made under this section may —

(a) prohibit the performance of specified acts without the consent of the Director;

(b) authorise the Director to require or prohibit the performance of specified acts; and

(c) require specified acts to be performed to the satisfaction of the Director.

(3) The Director may, by notice in writing to the licensee of a child care centre, waive wholly, partly or conditionally the requirements of any regulation in respect of that child care centre and may amend or withdraw any such notice.

Made this 4th. day of Safar, 1427 Hijriah corresponding to the 4th. day of March, 2006 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM