



[Français](#)

**Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008**

S.O. 2008, CHAPTER 14

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**PART I**  
**INTERPRETATION**

**Definitions**

**1** In this Act,

“application entity” means an entity designated by the Minister under subsection 8 (1) with respect to an application under Part V for services and supports or for funding, or both, under this Act; (“entité d’examen des demandes”)

“direct funding” means funding for the benefit of a person with a developmental disability that is provided by the Minister through an application entity in accordance with a direct funding agreement; (“financement direct”)

“direct funding agreement” means an agreement described in section 11; (“accord de financement direct”)

“Director” means a Director appointed under section 6; (“directeur”)

“funding entity” means an entity designated by the Minister under subsection 8 (3) with respect to prioritizing the provision of services and supports and funding under this Act; (“entité d’examen du financement”)

“Minister” means the Minister of Community and Social Services or any other member of the Executive Council to whom the administration of this Act is assigned under the Executive Council Act; (“ministre”)

“policy directive” means a policy directive issued by a Director under section 7; (“directive en matière de politique”)

“prescribed” means prescribed by regulation; (“prescrit”)

“regulations” means the regulations made under this Act; (“règlement”)

“service agency” means a corporation or other prescribed entity that provides services and supports to, or for the benefit of, persons with developmental disabilities and that has entered into a funding agreement with the Minister under section 10 with respect to those services and supports; (“organisme de service”)

“service and support” means a service and support described in section 4 that is provided to a person with a developmental disability, or for the benefit of such a person. (“services et soutiens”) 2008, c. 14, s. 1.

**Interpretation, eligibility**

**2** A reference in this Act to a person being eligible for services and supports and funding under this Act is deemed to be a reference to the person being eligible to receive,

- (a) services and supports from a service agency that are funded by the Minister under a funding agreement made under section 10; and
- (b) direct funding in accordance with a direct funding agreement made under section 11. 2008, c. 14, s. 2.

#### **Developmental disability**

**3 (1)** A person has a developmental disability for the purposes of this Act if the person has the prescribed significant limitations in cognitive functioning and adaptive functioning and those limitations,

- (a) originated before the person reached 18 years of age;
- (b) are likely to be life-long in nature; and
- (c) affect areas of major life activity, such as personal care, language skills, learning abilities, the capacity to live independently as an adult or any other prescribed activity. 2008, c. 14, s. 3 (1).

#### **Same**

(2) In subsection (1),

“adaptive functioning” means a person’s capacity to gain personal independence, based on the person’s ability to learn and apply conceptual, social and practical skills in his or her everyday life; (“fonctionnement adaptatif”)

“cognitive functioning” means a person’s intellectual capacity, including the capacity to reason, organize, plan, make judgments and identify consequences. (“fonctionnement cognitif”) 2008, c. 14, s. 3 (2).

#### **Services and supports**

**4 (1)** The following are services and supports to which this Act applies:

1. Residential services and supports.
2. Activities of daily living services and supports.
3. Community participation services and supports.
4. Caregiver respite services and supports.
5. Professional and specialized services.
6. Person-directed planning services and supports.
7. Any other prescribed services and supports. 2008, c. 14, s. 4 (1).

#### **Definitions**

(2) In this section and for the purposes of this Act,

“activities of daily living services and supports” means services and supports to assist a person with a developmental disability with personal hygiene, dressing, grooming, meal preparation, administration of medication, and includes training related to money management, banking, using public transportation and other life skills and such other services and supports as may be prescribed; (“services et soutiens liés aux activités de la vie quotidienne”)

“caregiver respite services and supports” means services and supports that are provided to, or for the benefit of, a person with a developmental disability by a person other than the primary caregiver of the person with a developmental disability and that are provided for the purpose of providing a temporary relief to the primary caregiver; (“services et soutiens de relève pour fournisseurs de soins”)

“community participation services and supports” means services and supports to assist a person with a developmental disability with social and recreational activities, work activities, volunteer activities and such other services and supports as may be prescribed; (“services et soutiens liés à la participation communautaire”)

“host family residence” means the residence of a family, composed of one or more persons, in which a person with a developmental disability who is not a family member is placed by a service agency to reside and receive care, support and supervision from the host family, in exchange for remuneration provided to the host family by the service agency; (“résidence de famille hôte”)

“intensive support residence” means a staff-supported residence operated by a service agency,

- (a) in which one or two persons with developmental disabilities reside, and
- (b) in which each resident requires and receives intensive support that meets the prescribed requirements; (“résidence avec services de soutien intensif”)

“person-directed planning services and supports” means services and supports to assist persons with developmental disabilities in identifying their life vision and goals and finding and using services and supports to meet their identified goals with the help of their families or significant others of their choice; (“services et soutiens liés à la planification gérée par la personne”)

“professional and specialized services” includes services provided by a psychologist, psychological associate, adult protective service worker, social worker or speech language pathologist or such other services as may be prescribed; (“services professionnels et spécialisés”)

“residential services and supports” means services and supports that are provided to persons with developmental disabilities who reside in one of the following types of residences and includes the provision of accommodations, or arranging for accommodations, in any of the following types of residences, and such other services and supports as may be prescribed:

1. Intensive support residences.
2. Supported group living residences.
3. Host family residences.
4. Supported independent living residences.

5. Such other types of residences as may be prescribed; ("services et soutiens résidentiels")

"supported group living residence" means a staff-supported residence operated by a service agency, in which three or more persons with developmental disabilities reside and receive services and supports from the agency; ("résidence de groupe avec services de soutien")

"supported independent living residence" means a residence operated by a service agency that is not supported by staff and in which one or more persons with developmental disabilities,

(a) reside alone or with others but independently of family members or of a caregiver, and

(b) receive services and supports from the service agency. ("résidence avec services de soutien à l'autonomie") 2008, c. 14, s. 4 (2); 2009, c. 33, Sched. 8, s. 6 (1).

#### **Section Amendments with date in force (d/m/y) [ + ]**

### **PART II APPLICATION**

#### **Application**

5 This Act applies with respect to persons with developmental disabilities who reside in Ontario and are at least 18 years of age. 2008, c. 14, s. 5.

### **PART III ADMINISTRATION**

#### **Director**

6 (1) The Minister may appoint one or more Directors for the purposes of this Act. 2008, c. 14, s. 6 (1).

#### **Duties**

(2) A Director shall perform such duties and exercise such powers as may be imposed or conferred on the Director by this Act and the regulations. 2008, c. 14, s. 6 (2).

#### **Limitations, etc.**

(3) An appointment under this section is subject to such limitations or conditions as may be set out in the appointment. 2008, c. 14, s. 6 (3).

#### **Delegation**

(4) A Director may, in writing, authorize a person or class of persons to exercise any of the powers or duties of the Director under his or her supervision and direction. 2008, c. 14, s. 6 (4).

#### **Policy directives**

##### **Service agencies**

7 (1) A Director may issue policy directives to service agencies with respect to the following matters:

1. Performance standards and performance measures with respect to the provision of services and supports for persons with developmental disabilities.
2. Such other matters as may be prescribed. 2008, c. 14, s. 7 (1).

#### **Application entities**

(2) A Director may issue policy directives to application entities with respect to the following matters:

1. Procedures to be followed in monitoring and administering direct funding to or for the benefit of persons with developmental disabilities under section 11.
2. Procedures to be followed in performing the following functions:
  - i. determining under section 14 eligibility for services and supports and funding under this Act,
  - ii. determining the method of assessment used under subsection 17 (1) to assess the needs of a person with a developmental disability for services and supports under this Act,
  - iii. determining the qualifications and service standards of the persons who may perform the assessment under subsection 17 (1) of the needs of a person with a developmental disability.
3. Performance standards and performance measures with respect to the performance of duties of the entities under this Act.
4. Such other matters as may be prescribed. 2008, c. 14, s. 7 (2).

**Note: Subsection (3) comes into force on July 1, 2023. See: 2017, c. 34, Sched. 38, s. 3 (2).**

#### **Funding entities**

(3) A Director may issue policy directives to funding entities with respect to the following matters:

1. Procedures to be followed in performing the following functions:
  - i. determining the method of allocating Ministry resources among persons with developmental disabilities,
  - ii. determining the method of prioritizing persons for whom a funding entity has developed a service and support profile under section 18.
2. Performance standards and performance measures with respect to the performance of duties of the entities under this Act.
3. Such other matters as may be prescribed. 2008, c. 14, s. 7 (3).

**Classes**

(4) A policy directive may create different classes of service agencies, application entities and funding entities and may contain different provisions in respect of each class. 2008, c. 14, s. 7 (4).

**Compliance**

(5) Every service agency, application entity and funding entity shall comply with the applicable policy directives. 2008, c. 14, s. 7 (5).

**Legislation Act, 2006, Part III**

(6) A policy directive issued under this section is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2008, c. 14, s. 7 (6).

**Publication**

(7) The Director who issued the policy directive shall ensure that policy directives issued under this section are posted on the Ministry website or published in such other manner as may be prescribed. 2008, c. 14, s. 7 (7).

**Application and funding entities**

**8** (1) The Minister may designate, as an application entity for the purposes of this Act, a service agency, another corporation or another entity that may be prescribed. 2008, c. 14, s. 8 (1).

**Powers and duties**

(2) Every application entity shall perform the duties and may exercise the powers that this Act or the regulations specify for application entities. 2008, c. 14, s. 8 (2).

**Note: Subsections (3) and (4) come into force on July 1, 2023. See: 2017, c. 34, Sched. 38, s. 3 (2).**

**Funding entity**

(3) The Minister may designate, as a funding entity for the purposes of this Act, a corporation or another entity that may be prescribed but shall not designate a service agency as a funding entity. 2008, c. 14, s. 8 (3).

**Powers and duties**

(4) Every funding entity shall perform the duties and may exercise the powers that this Act or the regulations specify for funding entities. 2008, c. 14, s. 8 (4).

**Access to services and supports**

(5) Every application entity shall provide a single point of access to services and supports funded under this Act for persons with developmental disabilities residing in the geographic area described in the entity's designation. 2008, c. 14, s. 8 (5).

**Multiple entities in area**

(6) If the Minister designates more than one application entity for the same geographic area, the application entities designated for the area shall work together to comply with subsection (5). 2008, c. 14, s. 8 (6).

**Note: Subsections (7) and (8) come into force on July 1, 2023. See: 2017, c. 34, Sched. 38, s. 3 (2).**

**Funding entities**

(7) Every funding entity shall perform its duties and may exercise its powers with respect to persons with developmental disabilities residing in the geographic area described in the entity's designation. 2008, c. 14, s. 8 (7).

**Multiple entities in area**

(8) If the Minister designates more than one funding entity for the same geographic area, the funding entities designated for the area shall work together to comply with subsection (7). 2008, c. 14, s. 8 (8).

**Terms and conditions of designation**

(9) The Minister may impose terms and conditions on a designation made under this section and may from time to time amend or remove the terms and conditions or impose new terms and conditions. 2008, c. 14, s. 8 (9).

**Funding**

(10) The Minister may enter into funding agreements with application entities and funding entities to provide funding with respect to the costs that the application entities or funding entities, as the case may be, incur in exercising their powers or carrying out their duties under this Act. 2008, c. 14, s. 8 (10).

**Revocation of designation**

(11) The Minister may revoke a designation made under this section. 2008, c. 14, s. 8 (11).

**Quality assurance**

(12) Every application entity and funding entity shall comply with such quality assurance measures as may be prescribed. 2008, c. 14, s. 8 (12).

**Reporting requirements**

(13) Every application entity and funding entity shall,

(a) make a report to the Minister whenever the Minister requests it, in the form and containing the information specified by the Minister; and

(b) comply with such other reporting requirements as may be prescribed. 2008, c. 14, s. 8 (13).

**PART IV**  
**FUNDING OF SERVICES AND SUPPORTS**

**Funding of services and supports**

**9** The Minister may fund services and supports for persons with developmental disabilities using the following methods of funding:

1. The Minister may enter into funding agreements with service agencies under section 10.
2. In a funding agreement with an application entity described in subsection 8 (10), the Minister may agree to provide funds to the entity for purposes of direct funding agreements that the entity enters into under section 11 with persons with developmental disabilities or other persons on their behalf. 2008, c. 14, s. 9.

**Funding of service agencies**

**10** (1) The Minister may enter into a written agreement with a service agency to fund the agency for the provision of specified services and supports to, or for the benefit of, persons with developmental disabilities. 2008, c. 14, s. 10 (1).

**Terms and conditions**

(2) An agreement under subsection (1) shall be subject to such terms and conditions as are specified in it. 2008, c. 14, s. 10 (2).

**Compliance with agreement, Act, etc.**

(3) It is a term and condition of every funding agreement made under this section that the Minister may terminate some or all of the funding provided under the agreement if the service agency fails to comply with a term or condition of the agreement or with the requirements of this Act, the regulations or of an applicable policy directive. 2008, c. 14, s. 10 (3).

**Note: Section 11 comes into force on July 1, 2023. See: 2017, c. 34, Sched. 38, s. 3 (2).**

**Direct funding agreements**

**11** (1) An application entity may enter into a direct funding agreement under this section only if,

- (a) an application for direct funding has been made under section 13;
- (b) the funds to be provided under the agreement are requested solely for the purpose of purchasing services and supports for the benefit of a person with a developmental disability that are part of a prescribed class of services and supports;
- (c) the person with a developmental disability for whose benefit the services and supports would be purchased has been determined under section 14 to be eligible for services and supports and funding under this Act; and
- (d) the person who is to receive the funds under the agreement meets such requirements as may be prescribed. 2008, c. 14, s. 11 (1).

**Parties to agreement**

(2) An application entity may enter into a direct funding agreement with a person with a developmental disability or with another person acting on behalf of a person with a developmental disability. 2008, c. 14, s. 11 (2).

**Direct funding agreement**

(3) In a direct funding agreement,

- (a) the application entity shall undertake to provide funds to the other party to the agreement or to a person described in subsection (4) for the purpose of purchasing specified services and supports for the benefit of the person with a developmental disability; and
- (b) the other party to the agreement shall agree to use the funds solely for the purpose of purchasing the services and supports of the prescribed class that are specified in the agreement for the benefit of the person with a developmental disability. 2008, c. 14, s. 11 (3).

**Service co-ordinator**

(4) In a direct funding agreement, the application entity and the other party to the agreement may agree that the funds provided under the agreement be paid to a third party who shall use the funds solely for the purpose of purchasing services and supports for the benefit of the person with a developmental disability and in accordance with such further terms and conditions as may be specified in the agreement. 2008, c. 14, s. 11 (4).

**Contents of agreement**

(5) A direct funding agreement shall set out the requirements of subsections (6), (7) and (8) and such other terms and conditions of the funding as may be required by regulation or specified in the agreement. 2008, c. 14, s. 11 (5).

**Receipts and reports**

(6) A person who enters into a direct funding agreement with an application entity shall provide the application entity with such receipts and reports with respect to the use of the funds as may be required under the agreement. 2008, c. 14, s. 11 (6).

**Same**

(7) Despite subsection (6), the receipts and reports may be provided to the application entity by a person described in subsection (4) who received funds under a direct funding agreement if the agreement so provides. 2008, c. 14, s. 11 (7).

**Application entity**

(8) The application entity shall provide funds for the person with a developmental disability at such times and in such manner as are specified in the direct funding agreement and shall monitor the expenditures of the funds by the person who receives them to determine if they are being used in accordance with this Act, the regulations and the agreement. 2008, c. 14, s. 11 (8).

**Misuse of funds**

(9) If a person who receives funds under a direct funding agreement fails to use all or a part of the funds provided for the purpose referred to in clause (3) (b), the application entity may terminate the agreement. 2008, c. 14, s. 11 (9).

## **PART V ACCESS TO SERVICES AND SUPPORTS AND FUNDING**

### DEFINITION

#### **Definition, applicant**

**12** In this Part,

“applicant” means the person with a developmental disability who makes an application under subsection 13 (1) or on whose behalf an application is made under subsection 13 (2). 2008, c. 14, s. 12.

### APPLICATION FOR SERVICES AND SUPPORTS AND FUNDING

#### **Application**

**13** (1) A person with a developmental disability who wishes to receive services and supports from a service agency or direct funding for services and supports under this Act, or both, may submit an application for such services and supports or for such funding to the application entity designated for the geographical area in which the person resides. 2008, c. 14, s. 13 (1).

#### **Application on behalf of another**

(2) An application under subsection (1) may be made on behalf of a person with a developmental disability, by a member of the person's family, by the person's caregiver or by any other person. 2008, c. 14, s. 13 (2).

#### **Content of application**

(3) An application under subsection (1) may specify that the application is for,

- (a) services and supports provided by service agencies under this Act;
- (b) direct funding for services and supports; or
- (c) a combination of some services and supports from service agencies and some direct funding. 2008, c. 14, s. 13 (3).

#### **Amendment of application**

(4) An application under subsection (1) may be amended at any time after the application is submitted with respect to the services and supports or funding to be included in the application. 2008, c. 14, s. 13 (4).

#### **Form, etc.**

(5) An application under subsection (1),

- (a) shall be in the form approved by the Director, if any, and if there is no such form, in the form required by the application entity; and
- (b) shall be accompanied by such information and documentation as the application entity may specify or as may be required by regulation. 2008, c. 14, s. 13 (5).

#### **Provision of information**

(6) An application entity shall provide an applicant with information relating to,

- (a) the services and supports that are provided by service agencies in the geographical area for which the entity is designated; and
- (b) direct funding. 2008, c. 14, s. 13 (6).

### ELIGIBILITY

#### **Determination of eligibility**

**14** (1) Upon receipt of an application under subsection 13 (1), an application entity shall determine in accordance with this section whether the applicant is eligible for services and supports and funding under this Act. 2008, c. 14, s. 14 (1).

#### **Eligibility criteria**

(2) An applicant is eligible for services and supports and funding under this Act if,

- (a) he or she has a developmental disability within the meaning of section 3 and provides proof of the disability as required under subsection (3);
- (b) he or she is at least 18 years of age; and
- (c) he or she resides in Ontario. 2008, c. 14, s. 14 (2).

#### **Proof of developmental disability**

(3) An applicant, or a person acting on behalf of the applicant, shall provide the application entity with documentation that satisfies the application entity that the applicant has been assessed by a person with the prescribed qualifications, using such methods of assessment or criteria as may be prescribed, and determined to have a developmental disability within the meaning of section 3. 2008, c. 14, s. 14 (3).

#### **Further assessment**

(4) If an application entity is not satisfied that the applicant has a developmental disability based on the documentation provided under subsection (3), the application entity may require the applicant to undergo further assessment by a person with the prescribed qualifications, using such methods of assessment or criteria as may be prescribed. 2008, c. 14, s. 14 (4).

**Assessment report**

(5) The person who conducts an assessment under subsection (4) shall provide the application entity with a report which shall include a determination of whether, in the assessor's opinion, the applicant has a developmental disability within the meaning of section 3. 2008, c. 14, s. 14 (5).

**Notice of determination**

15 The application entity shall give the applicant, or a person who applied on the applicant's behalf under subsection 13 (2), or both, notice in writing of its determination as to whether the applicant is eligible for services and supports and funding under this Act and of the reasons for the determination. 2008, c. 14, s. 15.

**Review of determination**

16 (1) If the application entity determines that an applicant is not eligible for services and supports and funding under this Act, the applicant, or a person acting on his or her behalf, may request a review of the determination in accordance with the regulations. 2008, c. 14, s. 16 (1).

**Same**

(2) The review shall be conducted in accordance with the regulations. 2008, c. 14, s. 16 (2).

**Statutory Powers Procedure Act**

(3) Despite section 32 of the *Statutory Powers Procedure Act*, that statute does not apply to a review conducted under this section. 2008, c. 14, s. 16 (3).

**PRIORITIZATION****Assessment and prioritization**

17 (1) If an applicant is determined to be eligible for services and supports and funding under this Act and if, in the case of an application for direct funding, the requirements for direct funding specified in subsection 11 (1) are satisfied,

- (a) an application entity shall assess the applicant's needs for services and supports using the method of assessment specified in a policy directive; and
- (b) a funding entity shall prioritize the provision of services and supports and funding to the applicant in accordance with sections 18 and 19. 2008, c. 14, s. 17 (1).

**Participation of person with developmental disability, etc.**

(2) An assessment under clause (1) (a) shall provide the person with a developmental disability, and any person who submitted an application under section 13 on his or her behalf, an opportunity to participate in the assessment and shall take into consideration the preferences of such persons. 2008, c. 14, s. 17 (2).

**Note: Sections 18 to 21 come into force on July 1, 2023. See: 2017, c. 34, Sched. 38, s. 3 (2).**

**Service and support profile**

18 (1) A funding entity shall develop a service and support profile for each applicant who is determined to be eligible for services and supports and funding under this Act. 2008, c. 14, s. 18 (1).

**Contents**

(2) A service and support profile shall set out the services and supports that may be provided by service agencies under this Act or for which direct funding may be provided under this Act, or both, as the case may be, based on the applicant's needs and the resources available under this Act. 2008, c. 14, s. 18 (2).

**Development**

(3) In developing a service and support profile for a person with a developmental disability, a funding entity shall apply the method of resource allocation specified in a policy directive to determine which services and supports may be provided to the person under this Act and the amount of funding available under this Act for those services and supports. 2008, c. 14, s. 18 (3).

**Prioritization, waiting list**

19 (1) A funding entity shall prioritize applications received under subsection 13 (1) for services and supports or for funding based on information contained in the applications and on the service and support profiles prepared under section 18. 2008, c. 14, s. 19 (1).

**Rules respecting prioritization**

(2) In prioritizing applications, a funding entity shall follow the rules for prioritizing applications set out in a policy directive. 2008, c. 14, s. 19 (2).

**Waiting lists**

(3) A funding entity may establish waiting lists for services and supports provided by service agencies under this Act and for direct funding and shall manage those lists in accordance with any applicable policy directives. 2008, c. 14, s. 19 (3).

**Same**

(4) If there are not sufficient funds available in a funding entity's geographic area to provide one or more services and supports specified in an applicant's service and support profile immediately or, if direct funding is requested, to provide the direct funding immediately, the funding entity may place the applicant on a waiting list for the services and supports or for the funding, as the case may be. 2008, c. 14, s. 19 (4).

**Report**

(5) A funding entity shall, on an annual basis within the time period specified by the Minister, report to the Minister the information that the Minister requires about the waiting lists referred to in subsection (3) and the Minister shall, within 60 days after receiving the report, publish it in the manner that the Minister considers appropriate. 2008, c. 14, s. 19 (5).

Reassessment of service and support profiles, etc.



**20** After a funding entity has developed a service and support profile for an applicant and prioritized the application, the entity may, subject to the procedures and rules for reassessment set out in a policy directive,

- (a) reassess the profile in accordance with section 18; and
- (b) in accordance with section 19, reassess the prioritization for services and supports or for direct funding, based on the reassessment of the profile under clause (a). 2008, c. 14, s. 20.

Notice of available services, etc.

**21** (1) If a funding entity has placed an applicant on a waiting list for services and supports provided by service agencies or for direct funding, the entity shall,

- (a) in the case of an application for services and supports from service agencies, give notice to a person described in subsection (2) when one or more of the services and supports becomes available and refer the applicant or person to the appropriate service agency; and
- (b) in the case of an application for direct funding, give notice to a person described in subsection (2) when the funding becomes available. 2008, c. 14, s. 21 (1).

Same

(2) The funding entity shall give the notice mentioned in subsection (1) to the applicant, or to the person who submitted the application for services and supports on the applicant's behalf under subsection 13 (2), or to both. 2008, c. 14, s. 21 (2).

## **PART VI RULES GOVERNING SERVICE AGENCIES**

### **Operation of service agencies**

**22** A service agency shall comply with any prescribed requirements with respect to the operation of the agency, including any requirements relating to the composition of its board of directors, if any, the agency's by-laws or the qualifications of any employees of the agency or of any other persons who provide services and supports on behalf of the agency. 2008, c. 14, s. 22.

### **Provision of services and supports**

**23** A service agency shall provide services and supports in accordance with,

- (a) the terms and conditions specified in its funding agreement; and
- (b) such performance standards and measures relevant to each service and support as may be required in a policy directive. 2008, c. 14, s. 23.

### **Quality assurance**

**24** A service agency shall comply with such quality assurance measures as may be prescribed. 2008, c. 14, s. 24.

### **Reporting requirements**

**25** A service agency shall,

- (a) make a report to the Minister whenever the Minister requests it, in the form and containing the information specified by the Minister; and
- (b) comply with such other reporting requirements as may be prescribed. 2008, c. 14, s. 25.

### **Complaints procedure**

**26** A service agency shall ensure that there are written procedures that comply with the regulations for initiating complaints to the service agency and for how the service agency deals with complaints. 2008, c. 14, s. 26.

## **PART VII ENFORCEMENT**

### **INSPECTIONS**

#### **Inspectors**

**27** (1) A Director may appoint inspectors for purposes of this Act. 2008, c. 14, s. 27 (1).

#### **Director, inspector by office**

(2) A Director is an inspector for purposes of this section by virtue of his or her office. 2008, c. 14, s. 27 (2).

#### **Certificate of appointment**

(3) The Director shall issue to every inspector a certificate of appointment bearing his or her signature or a facsimile of his or her signature. 2008, c. 14, s. 27 (3).

#### **Production of certificate**

(4) An inspector carrying out an inspection under section 28 shall produce his or her certificate of appointment upon request. 2008, c. 14, s. 27 (4).

#### **Inspections without warrant**

**28** (1) An inspector may carry out an inspection under this Act in order to determine if a service agency, an application entity or a funding entity is complying with this Act, the regulations and the applicable policy directives. 2008, c. 14, s. 28 (1).

#### **Entry**

(2) Subject to subsection (3), at any reasonable time, an inspector may, without warrant and in accordance with the prescribed criteria, enter premises that are owned or operated by a service agency, an application entity or a funding entity in order to carry out an inspection. 2008, c. 14, s. 28 (2); 2017, c. 34, Sched. 38, s. 1.

**Residences**

(3) The power to enter premises under subsection (2) shall not be exercised with respect to a residence for persons with developmental disabilities that is owned or operated by a service agency unless the residence is a supported group living residence, an intensive support residence or a prescribed type of residence. 2008, c. 14, s. 28 (3).

**Powers**

(4) Upon entering premises under subsection (2), an inspector may,

- (a) require any person in the premises to produce any document, record or thing that is relevant to the inspection;
- (b) upon giving a receipt for it, remove any document, record or thing that is relevant to the inspection for the purposes of making copies or extracts;
- (c) question any person present in the premises on matters relevant to the inspection;
- (d) in the case of an inspection of a residence referred to in subsection (3) or of other premises in which services and supports are provided to persons with developmental disabilities, examine the condition of the premises and its equipment and inquire from any person present in the premises, including residents or other persons receiving services and supports from a service agency, about,
  - (i) the adequacy of the staff,
  - (ii) the range of services and supports provided in the premises, and
  - (iii) any other matter considered relevant to the provision of services and supports to persons with developmental disabilities; and
- (e) use any data storage, processing or retrieval device or system used in carrying on business in the premises in order to produce a document or record in readable form. 2008, c. 14, s. 28 (4).

**Written demand**

(5) A demand that a document, record or thing be produced for inspection must be in writing and must include a statement of the nature of the document, record or thing required. 2008, c. 14, s. 28 (5).

**Assistance**

(6) An inspector may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inspection. 2008, c. 14, s. 28 (6).

**Use of force prohibited**

(7) An inspector shall not use force to enter and inspect premises under this section. 2008, c. 14, s. 28 (7).

**Obligation to produce and assist**

(8) A person who is required to produce a document, record or thing under clause (4) (a) shall produce it and shall, on request by the inspector, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document or record in readable form. 2008, c. 14, s. 28 (8).

**Return of removed things**

(9) An inspector who removes any document, record or thing from premises under clause (4) (b) shall,

- (a) make it available to the person from whom it was removed, on request, at a time and place convenient for both the person and the inspector; and
- (b) return it to the person being inspected within a reasonable time. 2008, c. 14, s. 28 (9).

**Admissibility of copies**

(10) A copy of a document or record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2008, c. 14, s. 28 (10).

**Section Amendments with date in force (d/m/y) [ + ]****Warrant**

**29** (1) A justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter premises specified in the warrant and to exercise any of the powers mentioned in subsection 28 (4), if the justice of the peace is satisfied on information under oath or affirmation that,

- (a) the inspector has been prevented from entering premises under section 28, or has been prevented from exercising a power under subsection 28 (4); or
- (b) there are reasonable grounds to believe that the inspector will be prevented from entering premises under section 28, or will be prevented from exercising a power under subsection 28 (4). 2008, c. 14, s. 29 (1).

**Expiry of warrant**

(2) A warrant issued under this section shall name a date on which it expires, which shall not be later than 30 days after the warrant is issued. 2008, c. 14, s. 29 (2).

**Extension of time**

(3) A justice of the peace may extend the date on which a warrant issued under this section expires for an additional period of no more than 30 days, upon application without notice by the inspector named in the warrant. 2008, c. 14, s. 29 (3).

**Use of force**

(4) An inspector named in a warrant issued under this section may use whatever force is necessary to execute the warrant and may call upon a police officer for assistance in executing the warrant. 2008, c. 14, s. 29 (4).

**Time of execution**

(5) A warrant issued under this section may be executed only between 8 a.m. and 8 p.m., unless the warrant specifies otherwise. 2008, c. 14, s. 29 (5).

**Other matters**

(6) Subsections 28 (5), (6), (8), (9) and (10) apply, with necessary modifications, with respect to the exercise, under a warrant issued under this section, of the powers mentioned in subsection (1). 2008, c. 14, s. 29 (6).

**COMPLIANCE ORDERS AND APPOINTMENT OF MANAGER****Compliance order**

**30** (1) Subject to subsection (3), a Director may make an order under subsection (2) if a service agency, an application entity or a funding entity has failed to comply with this Act, the regulations or a policy directive. 2008, c. 14, s. 30 (1).

**Same**

(2) In an order under this section, a Director may direct the service agency, application entity or funding entity to do either or both of the following:

1. To do anything, or refrain from doing anything, to achieve compliance within the time period specified in the order.
2. To prepare, submit and implement, within the time period specified in the order, a plan for achieving compliance. 2008, c. 14, s. 30 (2).

**Notice of proposed order**

(3) Before making an order under subsection (2) against a service agency, an application entity or a funding entity, a Director shall give notice of the proposed order, together with the reasons for it, to the service agency, application entity or funding entity, as the case may be. 2008, c. 14, s. 30 (3).

**Right to respond**

(4) A notice under subsection (3) shall inform the service agency, application entity or funding entity of the right to make submissions to the Director with respect to the proposed order within 14 days of receipt of the notice or within such other time period specified in the notice. 2008, c. 14, s. 30 (4).

**Order**

(5) A Director may issue an order under subsection (2) after considering a submission received under subsection (4) or, if no submission is received, after the time period required under subsection (4) has expired. 2008, c. 14, s. 30 (5).

**Compliance required**

(6) A service agency, an application entity or a funding entity served with an order by a Director under subsection (2) shall comply with the order within the time specified in it. 2008, c. 14, s. 30 (6).

**Failure to comply**

(7) If a service agency, an application entity or a funding entity fails to comply with an order under subsection (2) within the time specified in it, the Minister may,

- (a) in the case of an order made against a service agency, terminate a funding agreement made under section 10; and
- (b) in the case of an order made against an application entity or a funding entity, revoke the designation under section 8 of the application entity or funding entity, as the case may be, and terminate the funding agreement made under subsection 8 (10). 2008, c. 14, s. 30 (7).

**Immediate take-overs**

**31** (1) Upon notice to a service agency, an application entity or a funding entity, the Minister may, based on grounds set out in subsection (2), appoint a person to take over and manage the affairs of the service agency, application entity or funding entity, as the case may be, only with respect to services and supports provided under this Act or for which funding is provided under this Act. 2008, c. 14, s. 31 (1).

**Grounds**

(2) The Minister may make an appointment under this section if there are reasonable grounds to believe that,

- (a) funds provided by the Minister under this Act to the service agency, application entity or funding entity have been misappropriated or there has been gross negligence in the management of those funds; or
- (b) in the case of a service agency, the manner in which services and supports are provided by the agency constitutes, in the Minister's opinion, an immediate threat to the health, safety or well-being of persons with developmental disabilities. 2008, c. 14, s. 31 (2); 2009, c. 33, Sched. 8, s. 6 (2).

**Notice**

(3) A notice of the appointment of a manager shall set out,

- (a) the date and time at which the appointment becomes effective;
- (b) the reasons for the appointment; and
- (c) information about the right to request a review of the appointment under subsection (4). 2008, c. 14, s. 31 (3).

**Request for review**

(4) A service agency, an application entity or a funding entity that receives notice of the appointment of a manager under this section may request a review of the appointment in accordance with the regulations. 2008, c. 14, s. 31 (4); 2009, c. 33, Sched. 8, s. 6 (3).

**Review**

(5) If a request for a review is made under subsection (4), the review shall be conducted, in accordance with the regulations, as soon as possible after a manager is appointed under subsection (1). 2008, c. 14, s. 31 (5).

## Section Amendments with date in force (d/m/y) [ + ]

### Powers of manager on take-over

**32** (1) If a manager is appointed under section 31 to take over and manage the affairs of a service agency, an application entity or a funding entity with respect to services and supports provided under this Act or for which funding is provided under this Act, the manager has all the powers of the board of directors of the agency, application entity or funding entity, as the case may be, with respect to those services and supports or with respect to that funding, as the case may be. 2008, c. 14, s. 32 (1).

### Occupation of premises

(2) Without limiting the generality of subsection (1), the manager appointed under section 31 may,

- (a) despite sections 25 and 39 of the *Expropriations Act*, immediately occupy, operate and manage any premises occupied or used by the service agency, application entity or funding entity, as the case may be, in the course of operating their business with respect to the services and supports mentioned in subsection (1); and
- (b) apply without notice to the Superior Court of Justice for an order directing the sheriff to assist the manager in occupying the premises. 2008, c. 14, s. 32 (2).

### Maximum period

(3) The manager shall not occupy, operate or manage premises occupied or used by the service agency, application entity or funding entity, as the case may be, for a period exceeding two years without the consent of the service agency, application entity or funding entity, but the Lieutenant Governor in Council may from time to time authorize an extension of the period. 2008, c. 14, s. 32 (3).

### Protection from personal liability

**33** (1) No action or other proceeding for damages or otherwise shall be instituted against a manager appointed under section 31, or any agent of the manager, or any person conducting a review under subsection 31 (5) as a result of any act done in good faith in the performance or intended performance of any duty under this Act or in the exercise or intended exercise of any power under this Act, or for any neglect or default in the performance or exercise in good faith of such duty or power. 2009, c. 33, Sched. 8, s. 6 (4).

### Crown liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject. 2008, c. 14, s. 33 (2).

### Liability for actions previous to take-over

(3) The Crown and any manager appointed under section 31 shall not, by reason of the appointment of the manager, be responsible for any liability of the service agency, application entity or funding entity for which the manager was appointed that was incurred during a period before the appointment of the manager or attributable to such a period. 2008, c. 14, s. 33 (3).

## Section Amendments with date in force (d/m/y) [ + ]

### Labour relations matters

#### Not successor employer

**34** (1) The appointment of a manager under section 31, the operation of a service agency, an application entity or a funding entity by the manager or the ceasing of that operation is not a sale of a business for the purposes of section 9 of the *Employment Standards Act, 2000*, section 69 of the *Labour Relations Act, 1995* or section 13.1 of the *Pay Equity Act*. 2008, c. 14, s. 34 (1).

#### Related employers

(2) If a manager is appointed under section 31,

- (a) no person is entitled to make an application under subsection 1 (4) of the *Labour Relations Act, 1995*; and
- (b) the manager and the applicable one of the service agency, application entity or funding entity shall not be treated as one employer under section 4 of the *Employment Standards Act, 2000*. 2008, c. 14, s. 34 (2).

## PART VIII GENERAL

### Collection and use of personal information

**35** (1) The Minister may collect personal information directly from persons who apply for or receive services and supports from service agencies or direct funding under this Act, or indirectly from others, for purposes relating to the following matters and may use it for those purposes:

1. Administering this Act and the regulations.
2. Monitoring compliance with this Act, the regulations and the policy directives.
3. Reviewing, assessing and updating policy directives.
4. Evaluating the performance of service agencies, application entities and funding entities.
5. Planning and forecasting the need for services and supports in various geographic areas in the Province and the human and financial resources that will be required to meet changes in those needs.
6. Risk management or activities to evaluate the services and supports that are provided under this Act, so as to promote the safety and security of persons with developmental disabilities. 2008, c. 14, s. 35 (1).

**Limits on collection and use**

(2) The Minister shall not collect or use personal information if other information will serve the purpose of the collection or use. 2008, c. 14, s. 35 (2).

**Same**

(3) The Minister shall not collect or use more personal information than is reasonably necessary to meet the purpose of the collection or use. 2008, c. 14, s. 35 (3).

**Disclosure by application or funding entities**

(4) The Minister may require an application entity or a funding entity to disclose to him or her personal information that it collected in the course of its duties under this Act for the purposes described in subsection (1). 2008, c. 14, s. 35 (4).

**Definition, personal information**

(5) In this section,

“personal information” means personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*. 2008, c. 14, s. 35 (5).

**Offences**

**36** (1) A person is guilty of an offence if the person,

- (a) knowingly hinders or obstructs an inspector carrying out an inspection under section 28;
- (b) knowingly furnishes false information to the inspector; or
- (c) fails to comply with subsection 8 (12) or (13) or with section 24 or 25. 2008, c. 14, s. 36 (1).

**Corporation**

(2) If a corporation commits an offence under subsection (1), any director, officer or employee of the corporation who knowingly authorized or concurs in the commission of the offence is guilty of an offence. 2008, c. 14, s. 36 (2).

**Penalty**

(3) Every person convicted of an offence under this section is liable to a fine of not more than \$5,000. 2008, c. 14, s. 36 (3).

**Regulations, Minister**

**37** The Minister may make regulations,

- (a) respecting applications for a review of a determination of eligibility made under section 16 and the conduct of such a review, including determining the person or entity who will conduct the review and the rules and procedures that apply to the review;
- (b) governing quality assurance measures applicable to application entities, funding entities and service agencies and requiring compliance with such measures;
- (c) governing reports to be made to the Minister by application entities and funding entities for the purposes of subsection 8 (13) and by service agencies for the purposes of section 25;
- (d) respecting the financial records and other records to be kept by application entities, funding entities and service agencies and requiring such records to be made available in the prescribed manner. 2008, c. 14, s. 37.

**Regulations, Lieutenant Governor in Council**

**38** The Lieutenant Governor in Council may make regulations,

- (a) providing for any matter that is referred to in this Act as being prescribed, as being authorized by, specified in or provided for in the regulations or as being made or done in accordance with the regulations;
- (b) defining “significant limitations” for the purposes of subsection 3 (1);
- (c) prescribing additional services and supports to which this Act applies for the purposes of paragraph 7 of subsection 4 (1) and defining “social and recreational activities”, “work activities” and “volunteer activities” for the purposes of the definition of “community participation services and supports” in subsection 4 (2) and defining “intensive support” for the purposes of the definition of “intensive support residence” in subsection 4 (2);
- (d) respecting the powers and duties of a Director;
- (e) governing application entities and funding entities, including the designation of entities, other than service agencies or corporations, as application entities or funding entities, prescribing the powers and duties of application entities and funding entities and respecting funding agreements made between the Minister and application entities or funding entities under subsection 8 (10);
- (f) governing funding agreements made between the Minister and service agencies under section 10;
- (g) governing direct funding and direct funding agreements made under section 11 between an application entity and either a person with a developmental disability or another person acting on that person’s behalf;
- (h) governing applications for services and supports or for funding made by or on behalf of persons with developmental disabilities under Part V, including determinations of eligibility for such services and supports and funding and prioritization for services and supports and funding;
- (i) governing the powers of a manager appointed under section 31;
- (j) governing reviews of an appointment conducted under subsection 31 (5) and requests for such reviews;
- (k) governing service agencies, including their operation, the composition of their board of directors, if any, and the qualifications of their employees or of any other persons who provide services and supports to, or for the benefit of, persons with developmental disabilities;

- (l) governing the provision of services and supports by service agencies to, or for the benefit of, persons with developmental disabilities, including the provision of residential services and supports;
- (m) governing residences for persons with developmental disabilities in which residential services and supports are provided and prescribing additional types of residences for the purposes of the definition of “residential services and supports” in subsection 4 (2);
- (n) respecting intensive support residences and supported group living residences, including the standards applicable to the construction and maintenance of such residences, the health and safety of residents, the requirements for staff and volunteers and their qualifications, the provision of services and supports to residents, the maintenance of records and the rules governing physical restraint of residents and the training of staff in relation to the use of physical restraint;
- (o) respecting training programs for staff and volunteers of application entities, funding entities and service agencies;
- (p) governing practices and procedures relating to complaints received from persons with developmental disabilities or others, including establishing a complaints process for such complaints or requiring application entities, funding entities and service agencies to establish a complaints process in accordance with the regulations;
- (q) respecting any transitional matters necessary for the effective implementation of this Act and the regulations. 2008, c. 14, s. 38; 2009, c. 33, Sched. 8, s. 6 (5).

**Section Amendments with date in force (d/m/y) [ + ]**

**Draft regulations made public**

**39** (1) Before the Minister makes a regulation under section 37 or the Lieutenant Governor in Council makes a regulation under section 38, a draft of the regulation shall be made available to the public by posting it on a government internet site and by such other means as the Minister considers advisable. 2008, c. 14, s. 39 (1).

**Opportunity for comments**

(2) Within 45 days after a draft regulation is made available to the public in accordance with subsection (1) or such other time that the Minister or the Lieutenant Governor in Council, as the case may be, specifies, any person may submit comments with respect to the draft regulation to the Minister. 2008, c. 14, s. 39 (2).

**Changes to draft regulation**

(3) After the time for comments under subsection (2) has expired, the Minister or the Lieutenant Governor in Council, as the case may be, may, without further notice, make the regulation with such changes as the Minister or the Lieutenant Governor in Council considers advisable. 2008, c. 14, s. 39 (3).

**Classes**

**40** A regulation made under section 37 or 38 may create different classes of persons, service agencies, application entities, funding entities and residences for persons with developmental disabilities and may contain different provisions in respect of each class. 2008, c. 14, s. 40.

**Municipal power to enter into agreements**

**41** (1) A regional municipality may enter into an agreement with a corporation described in subsection (2) that operates or intends to operate a supported group living residence, with respect to the construction, operation or maintenance of the residence. 2008, c. 14, s. 41 (1).

**Corporations**

(2) Subsection (1) applies to a corporation without share capital having objects of a charitable nature,

- (a) to which Part III of the *Corporations Act* applies; or

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause (a) is amended by striking out “Part III of the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”. See: 2010, c. 15, ss. 242, 249.**

- (b) that is incorporated under a general or special Act of the Parliament of Canada. 2008, c. 14, s. 41 (2).

**Section Amendments with date in force (d/m/y) [ + ]**

**PART IX  
TRANSITIONAL MATTERS**

**Transition, persons receiving services under *Developmental Services Act***

**42** (1) If, before the day this section comes into force, a person who is at least 18 years of age is receiving, or benefiting from, services purchased by the Minister under subsection 2 (2) of the *Developmental Services Act*, the person, on and after that day,

- (a) is deemed to be eligible for services and supports and funding under this Act for the purposes of section 14; and
- (b) shall continue to receive, or benefit from, those same services until such time as an application entity for the geographic area in which the person resides conducts an assessment in accordance with subsection (2). 2008, c. 14, s. 42 (1).

**Assessment**

(2) An application entity for the geographic area in which the person with a developmental disability resides shall conduct an assessment of needs of the person in accordance with section 17, subject to such procedures or rules as may be prescribed or specified in a policy directive. 2008, c. 14, s. 42 (2).

**Note: Subsections (3) and (4) come into force on July 1, 2023. See: 2017, c. 34, Sched. 38, s. 3 (2).**

**Service and support profile**

(3) A funding entity for the geographic area in which the person with a developmental disability resides shall develop a service and support profile for the person in accordance with section 18, subject to such procedures or rules as may be prescribed or specified in a policy directive. 2008, c. 14, s. 42 (3).

#### Direct funding

(4) For greater certainty, if a person described in subsection (1) applies for direct funding under this Act, the person shall comply with all the requirements of this Act except that the person shall be deemed to be eligible for services and supports and funding under this Act, and to have met all the requirements of section 14, for the purposes of the application. 2008, c. 14, s. 42 (4).

#### Transition, prior determination of eligibility

**43** (1) This section applies to a person with a developmental disability if,

- (a) before the day this section comes into force, an application for services was submitted by or on behalf of the person with a developmental disability who is at least 18 years of age to a person who provided services in accordance with an agreement made under subsection 2 (2) of the *Developmental Services Act*; and
- (b) on the day this section comes into force, the person with a developmental disability who is at least 18 years of age has not begun to receive, or benefit from, the services. 2008, c. 14, s. 43 (1).

#### Same

(2) A person with a developmental disability described in subsection (1) shall be deemed to be eligible for services and supports and funding under this Act for the purposes of section 14 on and after the day this section comes into force if the person,

- (a) received, before the day this section comes into force, notice in writing from the person who received the application referred to in clause (1) (a) stating that the person had been found to be eligible for services; or
- (b) otherwise satisfies an application entity for the geographic region in which the person with a developmental disability resides that, before the day this section comes into force, the person who received the application referred to in clause (1) (a) had found the person with a developmental disability to be eligible for services. 2008, c. 14, s. 43 (2).

#### Assessment

(3) An application entity for the geographic area in which the person with a developmental disability resides shall conduct an assessment of needs of the person in accordance with section 17, subject to such procedures or rules as may be prescribed or specified in a policy directive. 2008, c. 14, s. 43 (3).

**Note: Subsections (4) and (5) come into force on July 1, 2023. See: 2017, c. 34, Sched. 38, s. 3 (2).**

#### Procedure for funding entity

(4) A funding entity for the geographic area in which the person with a developmental disability resides shall, subject to such procedures or rules as may be prescribed or specified in a policy directive,

- (a) develop a service and support profile for the person in accordance with section 18; and
- (b) prioritize services and supports and funding for the person in accordance with section 19. 2008, c. 14, s. 43 (4).

#### Direct funding

(5) For greater certainty, if a person with a developmental disability described in subsection (1) applies for direct funding under this Act, the person shall comply with all the requirements of this Act except that the person shall be deemed to be eligible for services and supports and funding under this Act, and to have met all the requirements of section 14, for the purposes of the application. 2008, c. 14, s. 43 (5).

**44** REPEALED: 2017, c. 34, Sched. 38, s. 2.

#### Section Amendments with date in force (d/m/y) [ + ]

##### Transition, agreements under s. 2 (2) of *Developmental Services Act*

**45** Despite the repeal of the *Developmental Services Act*, if, before the day this section comes into force, an agreement made under subsection 2 (2) of that Act is valid and in effect, then on and after that day,

- (a) the agreement is deemed to be a funding agreement made under section 10 and shall continue to be valid and in effect until March 31 following the day this section comes into force; and
- (b) the person who entered into the agreement with the Minister is deemed to be a service agency for the purposes of this Act. 2008, c. 14, s. 45.

**46-63** OMITTED (AMENDS, REPEALS OR REVOKES OTHER LEGISLATION). 2008, c. 14, ss. 46-63.

**64** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2008, c. 14, s. 64; 2017, c. 34, Sched. 38, s. 3.

#### Section Amendments with date in force (d/m/y) [ + ]

**65** OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2008, c. 14, s. 65.

