

Explanatory Notes Basic Island Ordinance Childcare Caribbean Netherlands

General

The Public Entities of Bonaire, St. Eustatius and Saba (hereinafter referred to as: the Public Entities) and the Ministries of SZW, OCW, VWS and BZK (hereinafter referred to as: the Central Government) have the joint ambition of strengthening the childcare and the preschool and afterschool facilities in the Caribbean Netherlands. They also want to, in association with the educational and youth assistance and youth care organisations, arrive at an integral approach for the children in the Caribbean Netherlands.

To realise this ambition, the BES(t) 4 Kids programme was set up. The programme focuses on the creation of a safe and caring environment for children that is accessible to all parents. This departs from a safe, optimally continuing development of the child.

The Wet Kinderopvang BES (The Childcare BES ACT) is expected to take effect on January 1, 2022. Anticipating the Act, the Island Ordinance Childcare is used. This establishes the basis for the authorisation scheme, the quality and the supervision on the childcare in the Caribbean Netherlands for every Public Entity.

At the moment an Island Ordinance Childcare is not applicable on all three of the islands and the existing ordinances differ from each other. To provide for more coherence in the approach of the Public Entities, it was agreed that, with the assistance of the Central Government, a basic ordinance is established. The said basic ordinance is converted by the Public Entities into an Island Ordinance Childcare.

Authorisation scheme and quality

It is important for a properly operating childcare system and pre- and afterschool facilities that childcare organisations with the requirements of the island ordinance. Only the organisations that comply with the island ordinance receive operating authorisation and can, based on the policy of the Public Entity, qualify for funding.

Childcare of good quality is of utmost importance. Children must feel safe and have the room to develop themselves. To strengthen the present quality of the childcare and the pre- and afterschool facilities, it is necessary that the organisations comply (start complying) with a number of quality requirements. These requirements were included in the basic ordinance. This regards, inter alia:

- having a pedagogic policy, including a continuing development line with the primary education;
- the approach of developmental and learning deficits;
- the manner that children with special care needs are handled and the relevant arrangements with chain partners;
- the training of professionals;
- the minimum number of professionals for a fixed group of children;
- the size of the indoor and outdoor area;
- a certificate of good behaviour for all the staff;
- a step-by-step plan domestic violence and child abuse;
- a safety and health policy;
- parent commitment and a complaints procedure.

The quality requirements in the basic ordinance represent the minimum. The Public Entities can impose higher quality requirements in the island ordinance, however not lower requirements. If they impose higher requirements, for instance because the local situation gives cause to this, then the reason is always elucidated.

The Public Entity can grant exemption in respect of one or more requirements (article 9 of the basic ordinance) to the existing childcare organisations that cannot immediately comply with the

quality requirements. The said exemption is granted for a certain period and may differ per requirement. The Public Entity can elaborate the rules regarding the granting of exemption further in an island resolution (see further the article-by-article explanatory notes to article 9).

Relationship childcare centre and host parent care

We understand childcare as day-care and afterschool care for children from the age of 0 up to and including group 8. The basic ordinance applies both to childcare at a childcare centre and to host parent care.

The quality requirements also apply to both forms of childcare. For some elements (e.g. the preparation of a pedagogic policy plan and a safety and health plan, the care in master groups and the professional – child ratio) exceptions were made and the requirements are to a lesser degree applicable to host parent care. The ordinance expressly indicates where this bears relevance.

Article-by-article

Article 1.

This article includes the definitions of all relevant concepts of the basic ordinance.

Article 2.

In pursuance of article 2 the Public Entity must set up a quality committee. The duties of this committee are of an advisory nature and particularly regard the process for the application for authorisation.

Article 3.

With this article authorisation or a declaration of temporary exemption of the Executive Council is rendered mandatory for operation of a childcare centre or host parent care.

Articles 4 up to and including 7.

These articles are related to the process for the application for the authorisation. Discussed are what details must be supplied with the application for authorisation, the time limits that are used, the opinion of the quality committee and the requirements for the operating authorisation.

Article 8.

This article provides for the procedure that applies if a childcare centre or host parent care requires a change of the authorisation. For instance, if the operator intends to expand the maximum number of children and/or the age of the children to whom care is offered.

Article 9.

Article 9 includes a so-called grace period. This implies that the Public Entity has the possibility of granting existing childcare organisations temporary exemption if the requirements for operating authorisation cannot immediately be met. An exception to this applies to article 22; having a safety and health policy is always required.

The possibility of a grace period offers a childcare organisation a reasonable period to work on improvements and to comply with the imposed quality requirements within a previously established period of time.

The relevant rules can be established by island resolution. The Public Entity must elaborate the duration of the grace period and the manner that the grace period is applied in it. In this respect, options are:

- an approach where it is assessed per quality requirement whether the childcare organisation complies with the same and what the duration of the exemption in respect of the said quality requirement is; or
- an approach with a more integral assessment of the degree that the childcare organisation complies with the quality requirements and it is agreed when the childcare organisation must on average have the quality in order.

Articles 10 and 11.

These articles regard the offer of responsible childcare by childcare centres and host parent care. Responsible childcare is understood as: 'the offer of a safe and healthy environment of emotional security to children, the stimulation of personal and social competence of children and the socialisation of children through the transfer of generally accepted values and standards'.

This was elaborated further in article 11 where four pedagogic basic targets of Riksen – Walraven¹ are included:

1. Offer a safe basis;
2. Stimulation of personal competence;
3. Stimulation of social competence;
4. Transfer of values and standards.

Article 12.

Article 12 renders it mandatory for childcare centres to have a pedagogic policy plan. In this plan it must be elaborated how substance is given to:

- the offer of responsible childcare (as described in articles 10 and 11);
- the manner that the development of children is followed and stimulated and a continuing development line with the primary education is realised. Part hereof is, with consent of the parents, the transfer of data. In addition, the manner must be addressed how particulars in the development are signalled and how, where required, referral takes place;
- the social security of the children and the staff;
- the programme of activities and daily rhythm;
- the manner that developmental and learning deficits are prevented and combatted and the programme that is used for preschool education;
- the duties that professionals in training, trainees and volunteers can perform and the manner that they are supervised and deployed. The guiding principle is always that volunteers are redundant;
- the manner that children with a special care need are handled and what arrangements were made about this with chain partners.

The pedagogic policy must be communicated to the parents in writing.

Article 13.

This article determines that a pedagogic policy plan (as described in article 12) is not required for host parent care. The pedagogic policy plan that is used within the host parent care must, however, be elaborated in writing in order that it can be part of the supervision.

Articles 14 and 15.

These articles regard the required level of education of the professionals in childcare. It is required for the offer of responsible and good-quality childcare that the professionals were trained well. All host parents and professionals who are employed at a childcare centre must therefore at least dispose of a pedagogic education at the level of Senior Secondary Vocational Education 2 (MBO-2) or Caribbean Vocational Qualification 2 (CVQ-2) or follow a course / training for this at the moment that they are employed.

In addition, at least one professional must be employed at a childcare centre who disposes of education at the level of Senior Secondary Vocational Education 3 (MBO-3) or Caribbean

¹ Professor J.M.A. Riksen-Walraven is an authoritative expert in the area of pedagogic quality of childcare. In the European Netherlands the quality requirements in the Childcare Act were based on the pedagogic basic goals of Riksen-Walraven. More information about this is available on <https://www.nji.nl/nl/Kennis/Dossier/Kinderopvang-en-peuterspeelzalen/Werken-aan-kwaliteit-van-kinderopvang>

Vocational Qualification 3 (CVQ-3) aimed at the signalling of developmental and learning deficits. The said professional must be employed at least three days per week.

In addition, during the childcare an adult must always be present who is qualified to administer first aid to children.

Article 16.

This article regards the certificate of good conduct (VOG). All adults who are employed, on a paid or voluntary basis, at a childcare centre or host parent care must submit a VOG.

At the time of submission the certificates cannot be older than three months, they must be updated every two years and they must be retained by the administration of the childcare centre or host parent care.

Article 17.

Article 17 regards the presence of a step-by-step plan domestic violence and child abuse for operators of a childcare centre. A step-by-step plan must include the following:

- a. Signalling and listing concerns as factually as possible.
- b. Requesting advice from a colleague and/or the notification coordinator.
- c. Meeting with the parents and, where possible, the child, unless ...
- d. Weighing the nature and seriousness of the domestic violence or the child abuse.
- e. Decision-making: organising assistance and/or filing a notification with the notification coordinator.

Optionally, the following can be added to the step-by-step plan:

- an assessment framework on the basis of which employees weigh the risk, the nature and the seriousness;
- an allocation of (final) responsibility to staff;
- where applicable, the manner that specific attention is paid to special forms of violence;
- the manner that the staff handle confidential data.

Articles 18 and 19.

For the stability of the children, it was determined in articles 18 and 19 that the care at childcare centres must take place in master groups. These master groups have a maximum size that is geared to the age of the children. A table was prepared for the exact size of the groups and the minimum number of professionals per group. This table is attached to the ordinance as a schedule. Moreover, fixed professionals must be used per master group as much as possible.

In case of combined groups of day-care and afterschool care, it is noted that the professional – child ratio (the relationship between the number of professionals and the number of children) for day-care applies.

In case of host parent care it always regards small-scale professional childcare provided by a host parent in a domestic atmosphere. The group of children at a host parent consists of a maximum of six children. If the host parent also has (foster) children or cousins, nephews and nieces who are present during the host parent care then they are taken into account when determining the size of the group. In addition, the group of six children can include a maximum of three children aged between 0 and a year and a half.

Further rules can be established by island resolution for the deployment of professionals in training and trainees. Professionals in training can only be included in the minimum number of professionals to be deployed if they are in an advanced stage of their training. For trainees the guiding principle is that they are basically 'extra' compared to the minimum number of professionals that must be deployed.

Article 20.

In pursuance of this article operators must provide the children they care for with healthy food. It is important for a good and healthy development of children that they are provided with healthy food. For instance, the guidelines of the RIVM can be used for this, or comparable guidelines. It is moreover important that harmonisation is sought with the other projects that focus on healthy food (for children).

Article 21.

This article imposes quality requirements on areas where children are cared for. It is important that the indoor and outdoor areas where children stay are safe, accessible and appropriate.

There must be a separate fixed area per master group.

Every childcare centre disposes of 3 square metres of playing area indoors and 3 square metres of playing area outdoors per child present.

It is important for a proper development that children have sufficient space both indoors and outdoors to play and to move in. The children must be stimulated and must have the possibility of playing outdoors a considerable part of the day, in a shady environment. In connection with the large number of sun hours in the Caribbean Netherlands, the playing area outdoors must partly be covered or be shady.

A separate sleeping area must be available for children up to the age of a year and a half.

All areas must be provided with sufficient ventilation.

Article 22.

Apart from the pedagogic policy as described in articles 10 up to and including 12, every childcare centre must dispose of a safety and health policy. This policy safeguards the safety and health of the children present.

The safety and health policy must be established in writing. It must, in any case, include the following:

- a description from which it becomes apparent that the safety and health plan is a continuous process. This implies that attention must continuously be paid to the safety and health of the children present. The mere establishment of the policy in writing is not sufficient;
- a description of the most considerable risks to the safety and health of the children and the risks of transgressive behaviour of the staff;
- a plan of approach with specific measures that are (can be) taken to limit the risks as much as possible. In addition, a specific description of what should be done in the event the risks nonetheless materialise. With regard to the risks of transgressive behaviour of the staff it is noted that it must be described specifically how it is ensured that the staff can only perform the activities whilst they can be seen or heard by another adult;
- a description how children are taught how to handle risks with limited consequences for their safety or health;
- a description of how the safety and health policy is communicated to staff and parents;

- a description of how the layout, the fire safety, the hygienic condition and the safety of the childcare centre are handled.

Article 23.

This article determines that a safety and health plan (as described in article 22) is not required for host parent care. The safety and health plan that applies within the host parent care should, however, be established in writing in order that it is possible to include it in the supervision.

Articles 24 up to and including 26.

Involvement of the parents in the care of their children is of utmost importance to the development of the children but also to the development of the quality of the childcare.

The articles 24 up to and including 26 regard the involvement of parents in the care at a childcare centre. The guiding principle in this respect is the establishment of a parent committee. If the childcare centre made an effort to do this but was unsuccessful in setting up a parent committee then an alternative form of parent participation can suffice.

With regard to smaller childcare centres (at most 50 children) it is also noted that an alternative form of parent participation can suffice.

The articles 25 and 26 impose further rules on the establishment of a parent committee. In this respect it regards the establishment of regulations and the subjects in respect of which the parent committee must be consulted, for instance: the pedagogic policy, food, opening hours, complaints mechanism and the price of the childcare.

The operator can only deviate from the opinion of the parent committee in a substantiated fashion.

Article 27.

Apart from a parent committee, every childcare centre must have a complaints committee. The complaints committee handles complaints about conduct vis-à-vis a parent or a child and about the agreement between the operator and the parent.

The complaints procedure must have been established in writing and must be known to the parents.

The procedure does, in any case, contain a description of the manner that complaints are received, examined and assessed. As well as the manner that a decision is reached and potential measures are implemented after the decision.

Articles 28 and 29.

In articles 28 and 29 the supervision and the enforcement are regulated. The articles contain the guiding principles for the temporary situation until the Wet kinderopvang Caribisch Nederland (Childcare Caribbean Netherlands Act) takes effect, which is expected in 2022.

The supervision is carried out by the Education Inspectorate at the request of the Public Entity under the authority of the Minister of Social Affairs and Employment. The Education Inspectorate can, during the performance of the supervision, delegate a part of the duties to a Municipal Health Service and/or another local organisation.

Administrative arrangements are agreed on between the Central Government, the Public Entities and the Education Inspectorate in which the division of duties between the Education Inspectorate and Municipal Health Service and/or other local organisations during the period up to the entry into force of the Wet kinderopvang Caribisch Nederland (Childcare Caribbean Netherlands Act) is elaborated further. The said elaboration may differ per island.

Important guiding principles in this respect are that the supervision is objective, independent and transparent. In this respect the supervision must stimulate and professionalise the object of supervision and the supervision must strengthen the administrative power.

The authorities of the supervisory authority, the advisory role of the Municipal Health Service and/or other local organisation in respect of the application for the operating authorisation in relation to the duties of the quality committee as intended in article 2 of the ordinance and the instruments, e.g. giving written communications, offering remedy periods and the immediate closing in acute situations, are elaborated further in the administrative arrangements.

The enforcement duties of the Public Entity must be carried out separately from the supervision duties by a Municipal Health Service and/or another local organisation. Further rules can be imposed on the enforcement by island resolution. This regards, inter alia, the instruments that can be used by the enforcing authority; the revocation of authorisation and the revocation of a temporary exemption as intended in article 9 paragraph 1 of the ordinance. These are, during the period up to the entry into force of the Wet kinderopvang Caribisch Nederland (Childcare Caribbean Netherlands Act), the only two available instruments that can be deployed by the enforcing authority.