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BIJ DE GRATIE GODS,  
KONING DER NEDERLANDEN,  
PRINS VAN ORANJE-NASSAU,  
ENZ. ENZ. ENZ.

**Draft Order of**

containing rules and further rules regarding the quality, funding, and data processing  
for childcare in the Caribbean Netherlands (Childcare BES Order)

On the recommendation of the State Secretary for Social Affairs and Employment of  
leave date open , no. no. (enter no.), made also on behalf of  
the State Secretary for Education, Culture and Science;

Having regard to Section 18.4.5, Subsection 1(b) of the Bonaire, St. Eustatius and Saba  
Public Entities Implementation Act, and Section 2.1 Subsection 3, Section 2.2 Subsection  
2, Section 2.3 Subsections 3 and 5, Section 2.4 Subsection 4, Section 2.6 Subsection 4,  
Section 2.10a Subsection 8, Section 2.14 Subsection 4, Section 2.15 Subsection 4,  
Section 2.17, Section 2.19 Subsection 5, Section 3.2 Subsection 5, Section 3.3  
Subsection 2, Section 3.4 Subsection 3, Section 3.5, Section 3.7 Subsection 2, Section  
3.11 Subsection 2, Section 3.16 Subsection 5, Section 4.7, and Section 5.11 Subsection  
2 of the Childcare BES Act;

Having heard the Advisory Division of the Council of State (opinion of date, no. );

Having regard to the further report of the State Secretary for Social Affairs and  
Employment dated , no. no. , issued also on behalf of  
the State Secretary for Education, Culture and Science,

**HAVE APPROVED AND AGREED:**

**Chapter 1. General provisions**

**Section 1.1 Definitions**

In this Order and the provisions based on it, the following definitions shall apply:

*basic group*: fixed group of children in the out-of-school care;

*experience certificate*: a certificate referred to in Section 2.7 Subsection 2;

*master group*: fixed group of children in the daycare;

*master group room*: indoor play area where the master group is mainly present;

*Act*: Childcare BES Act.

**Chapter 2. Quality requirements childcare centre and host parent care**

**Part 2.1. General provisions**

**Section 2.1. Exceptions to the acceptance obligation**

Circumstances referred to in Section 2.2 Subsection 2 of the Act are:

- a. there is no place within the childcare centre or host parent care facility to place the child;
- b. the childcare centre or the host parent:
  - 1°. cannot provide the support the child needs; and
  - 2°. as a consequence, responsible childcare cannot be provided for that child or other children within the childcare centre or the host parent care facility;
- c. the childcare centre or the host parent does not apply for childcare compensation for the child and does not receive childcare compensation for other children within the childcare centre or host parent care facility; or
- d. the childcare centre or the host parent reasonably expects that the parent shall not pay the parental contribution and, no later than six months before the intended commencement date of the new childcare agreement, the childcare compensation has been terminated on the basis of Section 3.3 Subsection 3(c) of the Act under a previous childcare agreement between the childcare centre or the host parent and the parent.

## **Section 2.2. Responsible childcare**

As part of the provision of responsible childcare, the childcare centre or the host parent shall ensure that, taking the developmental stage of the children into account:

- a. interaction with the children takes place in a sensitive and responsive manner, respects the autonomy of the children, and sets boundaries and provides structure for the conduct of the children in order that the children can feel emotionally safe and secure;
- b. the children are playfully challenged in the development of their motor skills, cognitive skills, language skills, and creative skills in order to enable the children to function increasingly independently in a changing environment;
- c. the children are guided in their interactions, teaching them social knowledge and skills through play, in order to enable the children to build and maintain increasingly independent relationships with others;
- d. the children are encouraged to become acquainted with the generally accepted values and norms in society in an open manner with a view to interacting respectfully with others and participating actively in society; and
- e. the play learning environment is language-rich and characterised by positive and high-quality interactions with and between the children.

## **Section 2.3. Expert in case of criminal offences in childcare**

The expert referred to in Section 2.10a of the Act:

- a. is neutral and independent in the performance of their duties towards:
  - 1°. the persons suspected of having committed a criminal offence referred to in the opening words of the first subsection of that section; and
  - 2°. the persons mentioned in the first subsection (a) to (d) of that section;
- b. is an expert in the field of criminal suspicion of child abuse and sexual offences against the morals of children;
- c. has experience in dealing professionally with those involved in child abuse or sexual offences; and
- d. has experience in fulfilling a role of trust.

## **Part 2.2. Health and safety policy at a childcare centre or host parent care facility**

### **Section 2.4. Health and safety policy**

1. The childcare centre or the host parent shall establish a health and safety policy for each childcare centre or host parent care facility as referred to in Section 2.3 Subsection 2 of the Act.
2. The childcare centre or the host parent shall ensure that childcare is provided in accordance with the health and safety policy.

### **Section 2.5. Content of the health and safety policy at a childcare centre**

1. The health and safety policy at a childcare centre shall include:
  - a. a concrete description of how the childcare centre, together with the professionals, ensures that the health and safety policy is a continuous process of policy formation, implementation, evaluation, and updating;
  - b. a concrete description of the risks posed by the care of children at the childcare centre in question, addressing:
    - 1°. the main risks with a major impact on the health and safety of children; and
    - 2°. the risk of transgressive conduct by professionals, trainee professionals, trainees, volunteers, other adults, and children present;
  - c. a concrete plan of approach on measures to mitigate the risks referred to under b, including the timeframe within which measures shall be taken, and the course of action if these risks materialise;
  - d. a description in general terms of how children are taught to deal with risks of which the impact on the health and safety of children is limited and which therefore do not constitute risks as referred to under b;
  - e. a concrete description of how the childcare centre ensures that the current health and safety policy and its evaluations are available to the professionals, trainee professionals, trainees, volunteers, and parents; and
  - f. a concrete description of how support is arranged, if only one professional is present in the childcare centre pursuant to Section 2.13 Subsection 7 or 8.
2. In the plan of approach referred to in Subsection 1(c), the childcare centre describes how it organises the daycare in such a way that a professional, trainee professional or trainee can only perform the activities whilst being seen or heard by another adult.

### **Section 2.6. Content of the health and safety policy at a host parent care facility**

The health and safety policy at a host parent care facility contains a concrete description of:

- a. the risks posed by the care of children at the host parent care facility in question, addressing the main risks with major implications for the health and safety of the children; and
- b. the arrangements for support as referred to in Section 2.18.

## **Part 2.3. Education, training, and experience requirements**

### **Section 2.7. Documentary evidence and experience certificates**

1. Documentary evidence can be designated by ministerial decree regarding the training and experience requirements for professionals or host parents.
2. Further rules on experience certificates for professionals or host parents shall be laid down by ministerial regulation.

### **Section 2.8. Education and experience requirements for professionals at a childcare centre**

1. A professional shall have an education, aimed at pedagogy, at least at the level referred to in Section 7.2.2 Subsection 1(c) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(c) of the Education and Vocational Education BES Act.
2. Notwithstanding Subsection 1, a professional who demonstrates by means of an experience certificate that they act at the level referred to in that subsection shall dispose of training aimed at pedagogy at least at the level:
  - a. referred to in Section 7.2.2 Subsection 1(b) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(b) of the Education and Vocational Education BES Act; or
  - b. two of the Caribbean Vocational Qualification.

#### **Section 2.9. Presence of a professional with middle management training at a childcare centre**

1. For at least half of the half-day sessions per week during which childcare is provided at a childcare centre location, the childcare centre shall deploy a professional who has completed a training aimed at pedagogy at least at the level referred to in Section 7.2.2 Subsection 1(d) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(d) of the Education and Vocational Education BES Act.
2. In the training referred to in the first subsection, demonstrable attention has been paid to:
  - a. working with early childhood education programmes;
  - b. encouraging the development of the young child, particularly in the areas of language, numeracy, motor skills, and socio-emotional development;
  - c. monitoring the development of toddlers and adjusting the provision of pre-school education accordingly;
  - d. identifying peculiarities in the development of children;
  - e. involving parents in the stimulation of the development of children; and
  - f. shaping the substantive connection between pre- and early childhood education and a careful transition of the child from pre- to early childhood education.

#### **Section 2.10. Training requirements for host parents**

- A host parent disposes of training aimed at pedagogy, at least at the level:
- a. referred to in Section 7.2.2 Subsection 1(b) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(b) of the Education and Vocational Education BES Act; or
  - b. two of the Caribbean Vocational Qualification.

#### **Section 2.11. Training requirements for first aid**

1. The childcare centre or host parent shall ensure that at least one adult qualified to administer first aid to children is present at all times during childcare.
2. Further rules on the qualification referred to in Subsection 1 shall be laid down by ministerial regulation.

### **Part 2.4. Stability of care, group size, and deployment of pedagogical staff**

#### **Section 2.12. Stability of childcare in a childcare centre**

1. In a childcare centre, childcare takes place in master groups or basic groups.
2. A child is cared for in one master group or basic group.
3. The size of the master group or basic group shall be adapted to the age of the children where, as the children are older, it may consist of more children.
4. Notwithstanding Subsection 3, the maximum size of:

- a. master groups derives from Appendix 1 to this Order; and
- b. basic groups derives from Appendix 2 to this Order.
- 5. The childcare centre informs the parents and the child to which master group the child belongs and which professional(s) is (are) assigned to the relevant master group on which day.
- 6. Within a master group or basic group, permanent professionals work as much as possible.
- 7. In daycare, a child is cared for in no more than two different master group rooms during the week.
- 8. If children in activities referred to in Section 2.32 Subsection 2(b):
  - a. leave the master group or basic group, the Subsections 1, 2, and 4 shall not apply;
  - b. leave the master group room, Subsection 7 shall not apply.
- 9. If a master group is combined with a basic group, the maximum size of the combined group shall follow from Appendix 3 to this Order.

### **Section 2.13. Number of professionals in a childcare centre and professional-child ratio**

- 1. The number of professionals to be deployed at a master group or basic group is matched to the number of children present where, as the children are older, fewer professionals need to be deployed.
- 2. Without prejudice to Subsection 1, the ratio between the minimum number of professionals to be deployed and the number of children present follows:
  - a. for master groups from Appendix 1 to this Order;
  - b. for basic groups from Appendix 2 to this Order; and
  - c. for combined groups from Appendix 3 to this Order.
- 3. Notwithstanding Subsection 2, fewer professionals may be deployed for up to three hours a day if:
  - a. at least 10 consecutive hours of care are provided per day;
  - b. the frameworks referred to in Section 2.32 Subsection 2(a) are observed;
  - c. at least half the number of professionals required under Subsection 2 is deployed during that time; and
  - d. if it concerns out-of-school care, this takes place on days off from the primary school or during school holidays.
- 4. Notwithstanding Subsection 2, in the case of out-of-school care before and after daily school hours and during free afternoons of the primary school, fewer professionals may be deployed for up to half an hour per day, if during that time at least half the number of professionals required under Subsection 2 is deployed.
- 5. If children leave the master group or basic group during an activity as referred to in Section 2.32 Subsection 2(b), this shall not lead to a reduction in the total number of minimum professionals to be deployed at or from the childcare centre compared to the situation immediately prior to the activity.
- 6. In daycare, the deviating deployment referred to in Subsection 3 may differ on the days of the week, with the understanding that the deviating deployment does not vary per week.
- 7. If, pursuant to Subsection 2, only one professional is present at the childcare centre, an adult who can be reached by telephone and who can be present at the childcare centre within fifteen minutes in the event of an emergency shall also be available. The childcare centre shall inform the persons working at the childcare centre of the name and telephone number of this person.

8. If, pursuant to Subsection 3 or 4, only one professional is deployed at the childcare centre, at least one other adult shall be present at the childcare centre to support this professional.

#### **Section 2.14. Overview of deployed professionals and attendance lists**

The childcare centre demonstrates, through an overview of deployed professionals and attendance lists of children, including an indication of arrival and departure times:

- a. the ratio between the minimum number of professionals to be deployed and the number of children present in a master group or basic group, as referred to in Section 2.13 Subsection 2; and
- b. if applicable, the application of Section 2.13 Subsection 3 or 4.

#### **Section 2.15. Deployment of trainee professionals, trainees and application of team qualification**

1. When using trainee professionals and trainees:
  - a. the childcare centre takes into account the stage of training they are currently in;
  - b. at least one professional as referred to in Section 2.8 is also deployed within the relevant master group, basic group or combined master group and basic group at all times; and
  - c. the childcare centre shall provide guidance.
2. The total minimum number of professionals to be deployed at the location where the childcare centre is being operated, which is formed by the sum of the minimum number of professionals to be deployed at the individual master groups or basic groups within that location, shall during the care:
  - a. consist of at least two-thirds of professionals as referred to in Section 2.8; and
  - b. for up to one third of:
    - 1°. trainee professionals; or
    - 2°. trainees.
3. Notwithstanding Section 2.8, it is permissible for a professional to have training, aimed at pedagogy, at least at the level:
  - a. referred to in Section 7.2.2 Subsection 1(b) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(b) of the Education and Vocational Education BES Act; or
  - b. two of the Caribbean Vocational Qualification.
4. If a professional as referred to in Subsection 3 is deployed:
  - a. the childcare centre takes the experience and expertise available to that professional at the time into account;
  - b. Subsection 1(b) and (c) shall apply mutatis mutandis to that deployment; and
  - c. that professional shall be considered a trainee professional for the purposes of Subsection 2.

#### **Section 2.16. Mentor**

1. A mentor is assigned to each child.
2. The mentor is a professional in the master group or basic group of the child.
3. The mentor:
  - a. periodically discusses the development of the child with parents; and
  - b. is a point of contact for parents with questions about the development and well-being of the child.

#### **Section 2.17. Group size at a host parent care facility**

At a host parent care facility, a maximum of:

- a. six children up to the age of 13 can be cared for simultaneously, including own children up to 10 years;
- b. five children up to the age of four can be cared for simultaneously; and
- c. four children up to the age of two can be cared for simultaneously, of which a maximum of two children up to the age of one.

#### **Section 2.18. Support at a host parent care facility**

During childcare hours, an adult is available who can be reached by telephone and can be at the host parent care facility within 15 minutes in case of an emergency.

### **Part 2.5. Activity programme at a childcare centre or host parent care facility**

#### **Section 2.19. Activity programme**

1. The activity programme at a childcare centre or host parent care facility is varied and includes activities that:
  - a. promote child relaxation; and
  - b. encourage child development.
2. The activity programme is appropriate to the age and developmental level of the children in the master group, basic group or group in the host parent care.

### **Part 2.6. Particularities in the development of a child and children with additional support needs at a childcare centre or host parent care facility**

#### **Part 2.6.1. Developmental particularities or additional support needs**

#### **Section 2.20. Pedagogical support and advice**

1. The tasks relating to pedagogical support and advice referred to in Section 2.3 Subsection 5 of the Act concern:
  - a. providing pedagogical support and advice to the childcare centre, the professional or the host parent on the provision of responsible childcare within a basic group, master group or group at a host parent care facility with a child with a special developmental particularity or additional support needs;
  - b. supporting and advising the childcare centre or host parent in a request to the educational care expertise centre to provide expert support as referred to in Section 2.18 Subsection 1 of the Act; and
  - c. supporting and advising the childcare centre, the professional or the host parent in the preparation and implementation of the supervision plan referred to in Section 2.23.
2. The Executive Council shall promote cooperation between the provider of pedagogical support and advice, the provider of prevention-oriented support for young persons as referred to in Section 18.4.5 Subsection 1 (b), of the Bonaire, St. Eustatius and Saba Public Entities Implementation Act, and the provider of youth health care, as referred to in Section 5 Subsection 1 of the Public Health Act.

#### **Section 2.21. Signalling particularities**

If the childcare centre or host parent identifies particularities in the development of a child:

- a. the childcare centre and the professionals involved or the host parent consult with the provider of pedagogical support and advice referred to in Section 2.3 Subsection 4 of the Act; and
- b. the childcare centre or host parent records this in the file of the child.

### **Section 2.22. Signalling additional support needs**

If the childcare centre or host parent identifies that a child has additional support needs:

- a. the childcare centre and the professionals involved or the host parent consult with the provider of pedagogical support and advice referred to in Section 2.3 Subsection 4 of the Act;

- b. the childcare centre or host parent prepares a supervision plan as referred to in Section 2.23; and

- c. the childcare centre or host parent may request the educational care expertise centre to provide expert support as referred to in Section 2.18 Subsection 1 of the Act, if the parents agree.

### **Section 2.23. Supervision plan**

1. A supervision plan shall contain at least a description of:

- a. the additional support needs of a child;
- b. the proposed approach and its planning;
- c. the intended outcome of the proposed approach;
- d. the evaluation and its planning.

2. The childcare centre or host parent involves the parents in the preparation of the supervision plan.

### **Section 2.24. Reflecting on particularities in the development of a child**

The childcare centre periodically reflects on the development of a child with the professionals involved, if particularities in the development of a child have been identified.

## **Part 2.6.2. Plus care**

### **Section 2.25. Time limit plus care licence**

The time limit referred to in Section 2.1 Subsection 3 of the Act is three years.

### **Section 2.26. Suspension or revocation of plus care licence**

The time limit referred to in Section 5.11 Subsection 2 of the Act is one year.

### **Section 2.27. Education and experience requirements for plus care at a childcare centre or host parent care facility**

1. During all half-day sessions during which plus care is provided in a master group or basic group, the childcare centre shall deploy at least one professional who has been trained in pedagogy at least to the level referred to in Section 7.2.2 Subsection 1(d) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(d) of the Education and Vocational Education BES Act.

2. Contrary to Section 2.10, a host parent who offers plus care shall have an education, aimed at pedagogy, at least at the level referred to in Section 7.2.2 Subsection 1(d) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(d) of the Education and Vocational Education BES Act.

3. If a professional or host parent, as referred to in Subsection 1 or 2, demonstrates by means of an experience certificate that it (they) is (are) acting at least at the level referred to in that subsection, it (they) may, in deviation from that subsection, have an education aimed at pedagogy, at least at the level referred to in Section 7.2.2 Subsection 1(c) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(c) of the Education and Vocational Education BES Act.



#### **Section 2.28. Number of professionals in plus care at a childcare centre**

Contrary to Section 2.13 Subsection 2, the total number of professionals to be deployed in the plus childcare facility is, if only children with an additional support need are cared for within the plus childcare facility:

- a. in daycare: at least one professional for every three children to be cared for;
- b. in out-of-school care: at least one professional for every five children to be cared for.

#### **Section 2.29. Group size in plus care at a host parent care facility**

Contrary to Section 2.17, a host parent offering plus care shall care for a maximum of the following number of children simultaneously, including their own children up to the age of ten:

- a. in daycare three; and
- b. in out-of-school care five.

#### **Section 2.30. Requirements for rooms in plus care**

The room in which the childcare centre or host parent provides plus care has a space and play materials that are adequately equipped for the additional support needs of the children.

### **Part 2.7. Pedagogical and educational policy at a childcare centre**

#### **Section 2.31. Pedagogical and educational policy**

1. Each childcare centre shall have a pedagogical and educational policy plan.
2. The childcare centre shall ensure that childcare is provided in accordance with the pedagogical and educational policy plan.
3. The childcare centre shall make the pedagogical and educational policy known in writing to the parents who use childcare at the childcare centre.

#### **Section 2.32. Content of the pedagogical and educational policy**

1. A pedagogical and educational policy plan in a childcare centre shall contain at least a concrete description of:
  - a. how responsible childcare as referred to in Section 2.2 is fulfilled;
  - b. the way in which particularities in the development of a child or problems are identified and parents are referred to appropriate agencies for further support;
  - c. the manner in which the mentor, referred to in Section 2.16, periodically discusses the information obtained about the development of a child with the parents and the manner in which it is made known to the parents and the child which professional is the mentor of the child;
  - d. the working method, maximum size, and age structure of the master groups or basic groups and the manner of compliance with Section 2.13 Subsection 2;
  - e. how children can get used to a new master group or basic group in which they shall be cared for;
  - f. the activity programme and daily rhythm;
  - g. the working language in the childcare centre;
  - h. the quality objectives the childcare centre intends to achieve and a plan of approach, planning and periodic evaluation of the same;
  - i. the distribution of tasks, roles, and responsibilities within the childcare centre;
  - j. how the childcare centre cooperates with parents to stimulate the development of the child; and

k. if it is daycare, the manner in which:

1°. developmental and learning disadvantages are prevented and combatted and the programme used for pre-school education;

2°. the development of the child is monitored and stimulated, striving for a continuous development line with primary education; and

3°. with the consent of the parents, knowledge about the development of the child is transferred to the school when the child transfers to primary education.

2. If applicable, in addition to Subsection 1, the pedagogical and educational policy plan shall also contain a concrete description of:

a. the frameworks within which, with due observance of Section 2.13 Subsection 3 or 4, the deployment of professionals referred to in Section 2.13 Subsection 2 can responsibly be deviated from;

b. the nature and organisation of activities during which children may leave the master group, master group room or basic group;

c. the policy on flexible care;

d. the tasks that trainee professionals, professionals as referred to in Section 2.15 Subsection 3, trainees and volunteers can carry out and the way in which they are supervised and deployed in this regard;

e. how children with additional support needs are cared for and how external organisations are involved;

f. if it concerns daycare, the manner in which the emotional safety of and stability for the children concerned is guaranteed when applying Section 2.12 Subsection 6; and

g. in the case of out-of-school care, the handling of the basic group during activities in groups larger than 30 children.

### **Section 2.33. Educational policy on pre-school education in daycare**

The childcare centre uses a programme for pre-school education in daycare that:

a. encourages the development of children in a structured, coherent, and playful way;

b. focuses on at least the focus areas of language, numeracy, motor skills, and the socio-emotional development of children;

c. content fits the Caribbean context;

d. suits the developmental stage of the children;

e. contributes to the smooth transition between childcare and primary education.

## **Part 2.8. Requirements for spaces at a childcare centre**

### **Section 2.34. Requirements for rooms at a childcare centre**

1. The indoor and outdoor areas where children stay during the time they are cared for at a childcare centre shall be safe, accessible, and appropriately equipped in accordance with the number and age of children to be cared for.

2. A childcare centre shall have an indoor play area of at least, per child present at the childcare centre:

a. if it is daycare, 3 m<sup>2</sup>;

b. if it is out-of-school care:

1°. until 31 December 2029 2.5 m<sup>2</sup>;

2°. from 1 January 2030 3 m<sup>2</sup>.

3. A childcare centre shall have at least 3 m<sup>2</sup> of permanent outdoor play space for each child present at the childcare centre.

4. The indoor play area is ventilated to ensure a healthy indoor environment.

5. Each master group has a separate permanent master group room.

6. Indoor areas appropriately equipped for play activities outside the master group room are allocated proportionally to the groups of the childcare centre.
7. A childcare centre shall have, for children up to the age of one and a half, a separate sleeping area appropriate to the number of children present.
8. The outdoor play area:
  - a. is shaded; and
  - b. adjacent to the building in which the childcare centre is located.

### **Section 2.35. Use of porches at a childcare centre**

1. A porch may be counted up to a maximum of 18 m<sup>2</sup> towards the minimum number of square metres of indoor play area referred to in Section 2.34 Subsection 2 if the porch:
  - 1°. is directly adjacent to the childcare centre;
  - 2°. has a permanent and solid structure;
  - 3°. is built on solid ground;
  - 4°. is equipped with a fence; and
  - 5°. is covered.
2. Porches are not used as separate master group space.
3. If a porch does not meet the requirements referred to in Subsection 1, it may be counted as an outdoor play area if the porch complies with Section 2.34 Subsections 1, 3, and 8.

## **Chapter 3. Funding**

### **Section 3.1. Structural childcare**

1. Structural childcare as referred to in Section 3.2 Subsection 1(g) of the Act shall be deemed to exist if the child is, per period of three months outside the school holidays of schools for primary education within the Public Entity, present at the childcare centre or host parent care facility for at least:
  - a. 80 per cent of the number of half-day sessions agreed in the childcare agreement; and
  - b. 50 per cent of the duration of the number of half-day sessions agreed in the childcare agreement.
2. Contrary to Subsection 1, there is question of structural childcare if the conditions referred to in Subsection 1 are not met because:
  - a. the child is ill, unless:
    - 1°. the child has been absent for more than two consecutive months; or
    - 2°. the child has been absent less than 25 per cent of the number of half-days agreed in the childcare agreement for more than six months;
  - b. if it concerns out-of-school care, the responsible persons, as referred to in Section 6 of the Compulsory Education BES Act, have been exempted from compulsory education with regard to the child in accordance with Part 4 of the Compulsory Education BES Act; or
  - c. if it concerns out-of-school care, the child has not been absent from the childcare centre or the host parent care facility for more than one part of the day per week for a regular out-of-school activity.

### **Section 3.2. Provision of childcare compensation**

1. The provision, on request, of childcare compensation, referred to in Section 3.2 Subsection 1 of the Act, shall be on a quarterly basis.
2. The date referred to in Section 3.3 Subsection 2 of the Act is the last day of the quarter in which childcare commences.

### **Section 3.3. Maximum half-daily sessions childcare compensation**

1. During the decision-making on capping referred to in Section 3.4 Subsection 2 of the Act the following shall be taken into account:
  - a. the demographic trend in the number of children;
  - b. the number of licences referred to in Section 2.1 Subsection 1 of the Act and the child places included therein at that time and in the situation expected after capping;
  - c. the total number of half-day sessions per month for the type of childcare for which childcare compensation is provided at that time and in the situation expected after capping;
  - d. reactions to the proposed capping from parents, childcare centres, and host parents;
  - e. the quality of the type of childcare;
  - f. the duration, termination or extension of the cap; and
  - g. if necessary for the purpose of continuity of childcare, the method of providing childcare compensation during the capping, in relation to the licences referred to in Section 2.1 Subsection 1 of the Act and the child places included therein.
2. The advice referred to in Section 3.4 Subsection 2 of the Act shall contain a description and consideration of:
  - a. the reasons for and against capping; and
  - b. the subjects referred to in Subsection 1(a), (b), and (d) to (g).

### **Section 3.4. Level of childcare compensation**

1. For daycare at a childcare centre or host parent care facility, the childcare compensation amounts to, per half-day period per child over the period:
  - a. until 31 December 2025: USD 22.40 on Bonaire, USD 24.80 on St. Eustatius, and USD 26.40 on Saba;
  - b. from 1 January 2026 up to and including 31 December 2026: USD 26.00 on Bonaire, USD 28.90 on St. Eustatius, and USD 30.70 on Saba;
  - c. from 1 January 2027 up to and including 31 December 2027: USD 28.00 on Bonaire, USD 31.10 on St. Eustatius, and USD 33.00 on Saba;
  - d. from 1 January 2028 up to and including 31 December 2028: USD 29.00 on Bonaire, USD 32.20 on St. Eustatius, and USD 34.20 on Saba;
  - e. from 1 January 2029 up to and including 31 December 2029: USD 30.00 on Bonaire, USD 33.30 on St. Eustatius, and USD 35.40 on Saba;
  - f. from 1 January 2030: USD 31.00 on Bonaire, USD 34.40 on St. Eustatius, and USD 36.60 on Saba.
2. For out-of-school care at a childcare centre or host parent care facility, the childcare compensation amounts to, per half-day period per child over the period:
  - a. until 31 December 2025: USD 25.40 on Bonaire, USD 28.10 on St. Eustatius, and USD 29.90 on Saba;
  - b. from 1 January 2026 up to and including 31 December 2026: USD 25.40 on Bonaire, USD 28.10 on St. Eustatius, and USD 29.90 on Saba;
  - c. from 1 January 2027 up to and including 31 December 2027: USD 26.00 on Bonaire, USD 28.90 on St. Eustatius, and USD 30.70 on Saba;
  - d. from 1 January 2028 up to and including 31 December 2028: USD 27.00 on Bonaire, USD 30.00 on St. Eustatius, and USD 31.90 on Saba;
  - e. from 1 January 2029 up to and including 31 December 2029: USD 28.00 on Bonaire, USD 31.10 on St. Eustatius, and USD 33.00 on Saba;
  - f. from 1 January 2030: USD 29.00 on Bonaire, USD 32.20 on St. Eustatius, and USD 34.20 on Saba.

3. The childcare compensation referred to in Subsections 1 and 2 shall be increased per half-day period per child under the age of one by:
  - a. USD 6 on Bonaire;
  - b. USD 6 on St. Eustatius; and
  - c. USD 6 on Saba.
4. If the amounts referred to in Subsections 1, 2 or 3 are changed, Our Minister shall provide the changed childcare compensation with effect from the quarter after the change has taken effect.
5. On the entitlement to childcare compensation that precedes the change referred to in Subsection 4 and during the quarter in which that change has taken place, this Order, as it reads on the day prior to that change, shall continue to apply.

### **Section 3.5. Change in amount of childcare compensation**

1. The amounts referred to in Section 3.4 Subsections 1, 2, and 3 shall be adjusted annually with effect from 1 January, in accordance with the development of the consumer price index figures for Bonaire, St. Eustatius, and Saba of the third quarter of the current year, compared to the third quarter of the previous year, as shown in the publication by Statistics Netherlands (CBS).
2. If the application of Subsection 1 would result in a reduction of the amounts referred to in Section 3.4 Subsection 1, 2 or 3:
  - a. by way of derogation from Subsection 1, those amounts are fixed unchanged; and
  - b. the percentage reduction omitted pursuant to paragraph a. shall be taken into account in the first subsequent application of Subsection 1 and, to the extent necessary, in subsequent applications as well, in each case applying mutatis mutandis the introductory sentence and paragraph a.
3. If the gross minimum hourly wage referred to in Section 9 Subsection 1 of the Minimum Wages BES Act is increased:
  - a. Our Minister adjusts, in accordance with such percentage increase, the amounts distinguished per Public Entity, as referred to in Section 3.4 Subsections 1 and 2, on a date to be specified in a Decree of Our Minister, on the understanding that the adjustment only concerns the part of such amounts corresponding to the wage costs of childcare employees earning less than the increased gross minimum hourly wage; and
  - b. if the number of employees, as referred to in paragraph a, is so substantial that, in connection with the structure of the pay scales in childcare, there is special cause to do so, Our Minister may additionally increase the amounts, as referred to in Section 3.4 Subsections 1 and 2, on a date to be specified in a Decree of Our Minister.
4. If an increase as referred to in Subsection 3 is applied as from 1 January, such increase shall take place after Subsection 1 and, if applicable, Subsection 2 have been applied.
5. The amounts amended in accordance with Subsection 1, 2 or 3:
  - a. replace the amounts specified in Section 3.4 Subsection 1, 2 or 3; and
  - b. are announced by or on behalf of Our Minister in the Government Gazette.

### **Section 3.6. Advance**

1. Our Minister may provide an advance as referred to in Section 3.7 Subsection 1 of the Act at the request of the childcare centre or host parent if:
  - a. per application, the advance does not exceed one quarter; and
  - b. childcare agreements have been concluded for the number of half-day sessions for which the advance payment is provided.
2. Our Minister may, at the request of the childcare centre or host parent, increase the advance granted if, after the application referred to in Subsection 1, the childcare centre

or host parent shall, on the basis of new childcare agreements, provide substantially more childcare half-days than the original advance was based on.

### **Section 3.7. Level of parental contribution until 31 December 2026**

1. The amount of the monthly parental contribution per child for the period up to and including 31 December 2026 concerns the amount referred to in Subsection 2, reduced proportionally by the difference between the maximum number of half-day sessions, as referred to in Section 3.4 Subsection 1 of the Act, for the month concerned and the number of half-day sessions of childcare in that month that follows for that child from the childcare agreement of the parent with the childcare centre or host parent.
2. The amount of the monthly parental contribution at the maximum number of half-day sessions per month referred to in Section 3.4 Subsection 1 of the Act relates to the period up to 31 December 2026:
  - a. if it concerns daycare:
    - 1°. USD 100 on Bonaire;
    - 2°. USD 75 on Saba; and
    - 3°. USD 75 on St. Eustatius.
  - b. if it concerns out-of-school care:
    - 1°. USD 100 on Bonaire;
    - 2°. USD 40 on Saba; and
    - 3°. USD 40 on St. Eustatius.

### **Section 3.8. Level of parental contribution from 1 January 2027**

From 1 January 2027, the amount of the parental contribution per half-day session per child shall amount to 4.17% of the then applicable level of the childcare compensation referred to in:

- a. if it concerns daycare: Section 3.4 Subsection 1;
- b. if it concerns out-of-school care: Section 3.4, Subsection 2.

## **Chapter 4. Data processing**

### **Section 4.1. Personal data to be processed for the purpose of progression to primary education**

The personal data referred to in Section 2.15 Subsection 1 of the Act concern personal data on the development of the child regarding:

- a. language skills;
- b. numeracy skills;
- c. motor skills; or
- d. socio-emotional skills.

### **Section 4.2. Provision of personal data from the European part of the Netherlands to Bonaire, St. Eustatius or Saba**

1. Officers designated under Section 5.1 Subsection 1 of the Act or Section 184 of the Criminal Procedure BES Code may provide personal data from the European part of the Netherlands to the following authorities within the Public Entities:
  - a. other officials designated under Section 5.1 Subsection 1 of the Act or Section 184 of the Criminal Procedure BES Code, to the extent that the provision is necessary for:
    - 1°. the supervision of compliance with the provisions under or pursuant to Chapter 2 of the Act or the performance of the duties referred to in Section 2.18 of the Act; or

- 2°. a partnership between the designated officials referred to in Section 4.5 Subsection 2 of the Act;
  - b. the Executive Council insofar as the provision is necessary for the advice referred to in Section 2.1 Subsection 5(a) of the Act or the supervision of the performance of the tasks referred to in Section 2.18 of the Act;
  - c. Our Minister to the extent that the provision is necessary for the supervision of the provisions under or pursuant to Chapters 3 or 4 of the Act; or
  - d. the childcare centre or host parent insofar as the provision is necessary for the implementation of Section 5.4 of the Act.
2. The personal data referred to in Subsection 1(b) or (d) may concern:
- a. relating to the childcare centre or host parent:
    - 1°. name;
    - 2°. administration or ID number;
    - 3°. contact details;
    - 4°. age;
    - 5°. date of birth;
    - 6°. gender;
    - 7°. nationality;
    - 8°. training; or
    - 9°. certificate of conduct;
  - b. in relation to the professional:
    - 1°. certificate of good conduct; and
    - 2°. diplomas, experience certificates, and other evidence of education, experience and training;
  - c. with regard to children with an additional support need: data concerning health, insofar as these are necessary for supervision of the quality of care for children with an additional support need or the performance of the tasks referred to in Section 2.18 of the Act.
3. The personal data referred to in Subsection 1(c) may concern, in relation to the childcare centre or host parent:
- a. name;
  - b. administration or ID number;
  - c. contact details;
  - d. age;
  - e. date of birth;
  - f. gender; or
  - g. nationality.

### **Section 4.3. Technical and organisational data protection measures**

The providing and receiving parties shall take appropriate technical and organisational measures to protect personal data.

## **Chapter 5. Final provisions**

### **Section 5.1. Transitional law regarding education requirements for professionals and host parents**

- a. Until 31 December 2029, by way of derogation from Section 2.8, it is permissible for a professional to have education, aimed at pedagogy, at least at the level:
  - 1°. referred to in Section 7.2.2 Subsection 1(b) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(b) of the Education and Vocational Education BES Act; or

2°. two of the Caribbean Vocational Qualification;

b. Until 31 December 2029, contrary to Section 2.27, a professional as referred to in Subsection 1 of that Section, or a host parent in plus-care is allowed to have an education, aimed at pedagogy, at least at the level referred to in Section 7.2.2 Subsection 1(c) of the Education and Vocational Education Act or Section 7.2.2 Subsection 1(c) of the Education and Vocational Education BES Act, if they also have demonstrable extra training or specialisation, appropriate to the extra support needs of the children in plus-care.

### **Section 5.2. Entry into force**

This Order shall enter into force at a time to be determined by Royal Decree, which may be set differently for the various sections or parts thereof.

### **Article 5.3. Citation**

This Order shall be cited as: Childcare BES Order.

Order and command that this Order and the accompanying Explanatory Memorandum shall be published in the Official Gazette.

State Secretary for Social Affairs  
and Employment,

J.N.J. Nobel



**Appendix 1 as referred to in Section 2.12 Subsection 4(a) and Section 2.13 Subsection 2(a) of the Childcare BES Order**

The minimum number of professionals to be deployed in relation to the number of children present in a master group is determined on the basis of table 1 (pursuant to Section 2.13 Subsection 2(a) of this Order). The table is applied in the order in which they are listed below. The maximum size of a master group follows from table 1 (pursuant to Section 2.12 Subsection 4(a) of this Order).

*Table 1. Calculation of minimum number of professionals to be deployed and maximum size of master groups*

	Age of children	Minimum number of professionals	Maximum number of children	Minimum number of professionals	Maximum number of children
Horizontal master groups (same age)	0 to 1	1	4	2	8
	1 to 2	1	6	2	12
	2 to 4	1	8	2	16
Vertical master groups (mixed ages)	0 to 2	1	5 <sup>1</sup>	2	10 <sup>2</sup>
	0 to 4	1	6 <sup>3</sup>	2	12 <sup>4</sup>
	2 to 4	1	8	2	16

<sup>1</sup> Including up to three children aged 0 to 1.

<sup>2</sup> Including up to six children aged 0 to 1.

<sup>3</sup> Including up to three children aged 0 to 1.

<sup>4</sup> Including up to six children aged 0 to 1.

**Appendix 2 as referred to in Section 2.12 Subsection 4(b) and Section 2.13 Subsection 2(b) of the Childcare BES Order**

The minimum number of professionals to be deployed in relation to the number of children present in a basic group is determined on the basis of table 2 (pursuant to Section 2.13 Subsection 2(b) of this Order). The maximum size of a basic group follows from table 2 (pursuant to Section 2.12 Subsection 4(b) of this Order).

*Table 2. Calculation of minimum number of professionals to be deployed and maximum size of basic groups*

Age of children	Minimum number of professionals	Maximum number of children	Minimum number of professionals	Maximum number of children
4 to 7	1	10	2	20
7 to age at which primary school ends	1	12	2	24
4 to age at which primary school ends	1	11 <sup>5</sup>	2	22 <sup>6</sup>

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<sup>5</sup> Including up to eight children aged 4 to 7.

<sup>6</sup> Including up to 10 children aged 4 to 7.

*This is a translation. The document "Concept regeling en nota van toelichting" (in Dutch) on the website <https://www.internetconsultatie.nl/nadereregelsomtrentdekwiteitfinancieringengegevensverwerkingtenbehoevavankinderopvang/b1> is leading.*

**Appendix 3 as referred to in Section 2.12 Subsection 9 and Section 2.13 Subsection 2(c) of the Childcare BES Order**

For the minimum number of professionals to be deployed in relation to the number of children present in a combination group with daycare and out-of-school care, Appendix 1, table 1, sections "vertical master groups", applies mutatis mutandis, on the understanding that "2 to 4" must be read as "2 to the age at which primary education ends". This is pursuant to Section 2.13 Subsection 2(c) of this Order.

For the maximum size of a combination group, Appendix 1, table 1, sections "vertical master groups", shall apply mutatis mutandis, except that "2 to 4" must be read as "2 to the age at which primary education ends". This is pursuant to Section 2.12 Subsection 9 of this Order.

## **Explanatory Memorandum**

### **General**

#### **1. Introduction**

The guiding principle of the Cabinet is that all children in the Netherlands should have the same developmental opportunities and that parents can go to work carefree. This also applies to the Caribbean Netherlands. Childcare makes an important contribution to this. For this reason, the Public Entities of Bonaire, St. Eustatius, and Saba, together with the Ministries of SZW, OCW, VWS, and BZK, launched the BES(t) 4 kids programme in 2018. The programme aims to structurally improve the quality of childcare on the islands and to reduce the cost of childcare for parents.

From the programme, the Childcare BES Act was prepared. This Act outlines the quality of childcare, provides the legal basis for supervision, and permanently regulates the funding. This Order (further) elaborates various rules that find their basis in the Act. It concerns (further) rules on quality, funding, data processing, and the external expert in case of a suspicion of criminal offences.

In the run-up to the entry into force of the Act and this Order, important steps have already been taken from the BES(t) 4 kids programme. With the Temporary Subsidy Scheme for the Funding of Childcare in the Caribbean Netherlands, the parental contribution has been lowered and childcare organisations receive subsidies to improve the quality of childcare. This has made childcare more affordable on all three islands. The programme has also contributed to more pedagogical staff having completed (higher) vocational training, which has improved the quality of childcare.

Although nice results have already been achieved in a relatively short period of time, there are still (more) steps to be taken to raise the quality to the required (higher) level. This is the finding of the Inspectorate of Education (hereafter referred to as: the Inspectorate) in its investigation into the quality of childcare in the Caribbean Netherlands. The Inspectorate indicates that the quality of childcare in the Caribbean Netherlands needs to be improved to meet the requirements of the currently applicable Island Ordinances and future statutory requirements.

The Cabinet endorses the conclusion of the Inspectorate, whilst recognising that the improvement of the quality is a long-term process. The explanatory memorandum to the Act describes that it is expected to take until 2030 to achieve the intended level of quality across the board. To respond to this and support organisations in doing so, the following measures have been taken. Firstly, the Cabinet decided to extend the programme until 2028. Secondly, this Order provides transitional arrangements on some parts of the quality requirements (see chapter 13). Thirdly, it was agreed with the Inspectorate that the emphasis in the coming period shall be placed on the stimulation of supervision (see chapter 9).

The content of the rules of this Order is explained in chapters 2 up to and including 6. This is followed by the consequences (chapter 7), implementation (chapter 8), supervision and enforcement (chapter 9), financial consequences (chapter 10),

***This is a translation. The document "Concept regeling en nota van toelichting" (in Dutch) on the website <https://www.internetconsultatie.nl/nadereregelstrentdekwaliteitfinancieringengegevensverwerkingtenbehoevavankinderopvang/b1> is leading.***

evaluation (chapter 11), advice and consultation (chapter 12), and transitional law and entry into force (chapter 13). As these points have, to a large extent, already been described in the explanatory memorandum to the Act, which also gives a glimpse of the intended (further) rules in the present Order, reference is made to the explanatory memorandum to the Act where possible, with a brief summary of the legal context where required for the readability. Only if there are additional points or changed insights shall they be explained in more detail in this explanatory memorandum.

## **2. Purpose of this Order, delimitation, and relationship other regulations**

### **2.1 Purpose**

The purpose of this Order is to elaborate the framework of rules on the quality and funding as laid down in the Childcare BES Act. The Act also contains delegation bases for the Childcare Island Ordinances. The Act, this Order, and the Island Ordinances combined form the package of rules for childcare in the Caribbean Netherlands. In some parts, rules are also laid down in a Ministerial Order and Island Ordinances.

The purpose of the package of regulations is to improve the quality and to increase the financial accessibility of childcare in the Caribbean Netherlands. A system of safe, high-quality, and affordable childcare should contribute to optimal continuous development and the reduction of disadvantages for the sake of a perspective-rich future for children. In addition, it contributes to burden reduction and decongestion on the part of parents so that they can work and generate their own income.

### **2.2 Comply or explain**

The aim is that eventually the quality of childcare in the Caribbean Netherlands is comparable to the quality of childcare in the European Netherlands. Within the framework of the 'comply or explain' principle, it was considered what rules that apply in the European Netherlands can also be introduced in the Caribbean Netherlands. Many of the rules in this Order have been created on the basis of 'comply': these rules correspond to the rules as they apply to childcare in the European Netherlands. In some parts, the choice has been made to 'explain': because of the Caribbean context (for example, because of the scale of the islands or scarcity of sufficiently trained professionals), rules are proposed that deviate from the rules in the European Netherlands. If the latter is the case then this is substantiated in this Explanatory Memorandum.

### **2.3 Relationship with other regulations**

In a number of sections, this Order does not contain rules because there are already sufficient rules on these through other regulations. This concerns in particular the Social Support and Combating Domestic Violence and Child Abuse BES Decree and the Personal Data Protection BES Act. In the Social Support and Combating Domestic Violence and Child Abuse BES Decree, which is being prepared by the Ministry of Health, Welfare and Sport, rules are set for the Caribbean Netherlands in the framework of the Reporting Code for Domestic Violence and Child Abuse. These shall also be declared applicable to childcare in the Caribbean Netherlands. The Personal Data Protection BES Act contains rules to protect the privacy of people. As that Act already contains rules about, among other things, concluding a processing agreement and organising sufficient guarantees with regard to technical and organisational security measures, this Order only sets additional rules with regard to data processing.

### **3. Further rules on childcare quality**

High-quality and responsible childcare is of great importance. Children should feel safe and have the space to develop. Therefore, this Order contains further rules on the quality of childcare. These rules cover matters like care for the child and its development, health and safety, hygiene, and accommodation.

Paragraph 3.1. discusses what is meant by responsible childcare and describes the further rules on this. Paragraph 3.2 describes health and safety regulations. Paragraph 3.3. deals with the rules concerning the pedagogical and educational actions of operators of childcare centres and host parents. Paragraph 3.4. discusses the support of the Public Entity to childcare centres and host parents. Finally, Paragraph 3.5. discusses the further rules for the support structure for children with additional support needs.

#### **3.1 Responsible childcare**

As an overarching quality requirement, the Childcare BES Act states that operators of childcare centres and host parents must organise childcare in such a way that it reasonably leads to responsible childcare. Responsible childcare means "offering emotional safety to children in a safe and healthy environment, promoting the personal and social competence of children, socialisation of children by transferring generally accepted values and norms, and playfully and purposefully stimulating language skills, numerical skills, motor skills, and socio-emotional skills for the purpose of a continuous development process for children".

The first part of this definition ("the transfer of generally accepted values and norms in a safe and healthy environment [...]") corresponds to the definition in the European Netherlands. The last part of the definition ("playfully and purposefully stimulating [...] continuous development process for children.") complements the definition in the European Netherlands because the Childcare BES Act integrates the goals of pre-school education in childcare, based on the assumption that many children in the Caribbean Netherlands benefit from additional attention to their development. Paragraph 4.2.2 of the Explanatory Memorandum of the Act explains the concept of responsible childcare in more detail.

As announced in the Explanatory Memorandum, this Order contains the same detailed rules as the rules applicable in the European Netherlands regarding the first part of the definition of responsible childcare<sup>7</sup>. In addition, this Order contains some additional rules regarding the second part of the aforementioned definition of responsible childcare. Taken together, it involves the following rules.

Childcare centres and host parents should ensure that children in care are stimulated in their development. Children should be challenged in the development of their language skills, numeracy skills, motor skills, cognitive skills, and creative skills, enabling children to function increasingly independently in a changing environment. Children should also be guided in their interactions, imparting socio-emotional knowledge and skills (socialisation) so that children are enabled to build and maintain increasingly independent relationships with others. Moreover, children should be encouraged to

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<sup>7</sup> Sections 2 and 11 of the Childcare Quality Decree.

become acquainted with the generally accepted values and norms in society in an open manner with a view to interacting respectfully with others and participating actively in society.

Operators of childcare centres and host parents must provide children with a language-rich play-learning environment characterised by high-quality, positive interactions both with and between children. This anticipates an intended amendment to the Basic Conditions Early Childhood Education (Quality) Decree in the European Netherlands. Emphasis is placed on interaction because young children mainly learn from interaction with their environment. It is important that this interaction is of high quality: it is about stimulating the children through interaction to think for themselves, make connections and talk, giving them targeted and specific feedback that enables them to progress a step further in their development. This can be done, for example, by asking open and stimulating questions, and reading aloud interactively. In addition, the interaction should be positive: the child should be encouraged with every attempt the child makes to take a step forward in their development, even if they do not succeed immediately. This way, learning remains fun. So the aforementioned feedback should be stimulating and appropriate to the level of understanding of the young child.

Encouraging the development of children should take place through play. Research shows that children - especially young children - learn from (supervised) play. Moreover, by emphasising play as well as relaxation, childcare - especially after-school care - complements and alternates well with primary education, where children are purposefully stimulated in their development along learning lines.

In addition, operators of childcare centres and host parents should take the developmental stage of children into account. Children develop rapidly in terms of cognitive and socio-emotional skills, and development often proceeds in leaps and bounds. As children get older, children therefore need a different kind of guidance each time. For instance, toddlers need a lot of one-on-one contact with the pedagogical professional, whilst older children can also learn from each other (peer tutoring) and have more need for free play. For this reason, it is important that the offer and guidance of children in childcare is geared to the developmental stage of the children in the group. In this way, playing, developing, and learning remain fun for children.

Finally, operators of childcare centres and host parents should ensure that within the childcare facility, children are treated in a sensitive and responsive manner, with respect for the autonomy of children, and boundaries and structure are set for the conduct of children so that children can feel emotionally safe and secure. Emotional safety is a precondition for the enjoyment of children in childcare: in a safe environment, children take the space to experience and discover.

### **3.2 Health and safety**

Based on the Childcare BES Act, operators of childcare centres and host parents are responsible for providing a safe and healthy environment as part of providing responsible childcare. Health and safety are broader than just physical environment and physical condition, e.g. ensuring child-friendly and hygienic areas, providing healthy food, and acting appropriately in case of pain and illness. It is also about emotional



safety and mental health: for example, does a child have the space to explore on their own but also to ask for help, and how is the wellbeing of children encouraged?

The Childcare BES Act creates the possibility to set further rules on health and safety in childcare by or pursuant to an order in council. On that basis, this Order contains rules on the health and safety policy. In addition, this Order contains rules on the maximum group size and the professional-child ratio, the available space and furnishing, the recognisability of rooms and persons, and the "four-eyes principle". The following paragraphs explain these rules in more detail. A distinction is made between childcare centres on the one hand and host parents on the other, because the setting and size (and therefore often the organisational strength) of host parent care is different from that of childcare centres. The requirements for host parents are therefore less far-reaching, but with sufficient safeguards for child health and safety.

### **3.2.1 Requirements for operators of childcare centres**

#### *Health and safety policy*

The Childcare BES Act contains the requirement that operators of childcare centres record their health and safety policy in writing and evaluate and adjust it where necessary<sup>8</sup>. This Order lays down further rules on health and safety. The Order regulates that the operator or host parent must prepare a health and safety policy for each childcare centre or host parent care facility; so not just per operator or host parent, if they have more childcare centres or host parent care facilities. The Order also regulates that the childcare centre or host parent must ensure that the health and safety policy is acted upon. In addition, the Order stipulates which elements must be described in the health and safety policy plan.

The health and safety policy plan of childcare centres must contain at least the elements listed below. This corresponds to the Childcare Quality Decree in force in the European Netherlands. Most of these rules are already in force now through the Island Childcare Ordinances, so operators of childcare centres are already familiar with them.

1. a concrete description of the way in which the operator of a childcare centre ensures that the health and safety policy is a continuous process of policy formation, implementation, evaluation, and updating together with the professionals;
2. a concrete description of the risks posed by the care of children at the childcare centre in question, addressing at least:
  - a. the main risks with a major impact on the health and safety of children; and
  - b. the risk of transgressive conduct by professionals, trainee professionals, trainees, volunteers, other adults, and children present;
3. A concrete plan of approach on the measures to contain the risks, including the timeframe within which measures shall be taken, and the course of action if these risks materialise;
4. a description in general terms of how children are taught to deal with risks of which the impact on the health and safety of children is limited;

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<sup>8</sup> Childcare BES Act, Section 2.3 Subsection 2.

5. a description of how the operator of a childcare centre ensures that the current health and safety policy and its evaluations are accessible to the professionals, trainee professionals, trainees, volunteers, and parents; and
6. a description of how support is arranged at the childcare centre in the situations when only one professional is present.

On the second point, the concepts of health and safety should be highlighted in the broad sense: it is not just about physiological and physical health, but also emotional safety, mental health, and digital safety.

The health and safety policy encourages operators of childcare centres to identify risks, take measures to minimise risks, and formulate a course of action in case a risk does occur. This is linked to quality assurance, and is further described in Section 5.1.

*Recognisability of rooms and people: master groups, basic groups, and mentors*

A master group is a fixed group of children in daycare and a basic group is a fixed group of children in after-school care. In the context of emotional safety, it is desirable for children to come into contact with the same pedagogical professionals as much as possible. Each master group has a designated area within the location where they can meet as a group. This way, people are recognisable and children get used to them more easily. Therefore, as in the European Netherlands, the use of so-called master groups and basic groups in childcare centres is made compulsory.

When a child enters the childcare centre, the child is assigned to a master group or basic group. The operator of the childcare centre informs the parents and the child to which master group or basic group the child belongs, which pedagogical professionals are assigned to the relevant group on which day, and who the mentor of the child is. This mentor is the first point of contact for the parents and the child.

*Maximum group size and professional-child ratio*

It is important that the minimum number of professionals to be deployed in a master group and basic group is geared to the number of children present in the group. In this Order, by analogy with the European Netherlands, rules are set for the maximum group size and the professional-child ratio. In addition, research shows that young children benefit from ample direct contact with the pedagogical professionals as part of their cognitive and socio-emotional development. Moreover, the youngest children also need more individual attention in the context of feeding and changing. As the children in the group get older, fewer professionals therefore need to be deployed.

The following rules are set out:

The minimum number of professionals to be deployed in relation to the number of children present in groups in daycare where all children are of the same age (*horizontal groups*):

Age of children	Minimum number of professionals	Maximum number of children	Minimum number of professionals	Maximum number of children
0 to 1	1	4	2	8

1 to 2	1	6	2	12
2 to 4	1	8	2	16

The minimum number of professionals to be deployed in relation to the number of children present in groups in the daycare where children are of different ages (vertical groups):

Age of children	Minimum number of professionals	Maximum number of children	Minimum number of professionals	Maximum number of children
0 to 2	1	5 <sup>9</sup>	2	10 <sup>10</sup>
0 to 4	1	6 <sup>11</sup>	2	12 <sup>12</sup>
2 to 4	1	8	2	16

The minimum deployment of professionals and the maximum group in the out-of-school care:

Age of children	Minimum number of professionals	Maximum number of children	Minimum number of professionals	Maximum number of children
4 to 7	1	10	2	20
7 to age at which primary education ends	1	12	2	24
4 to age at which primary education ends	1	11 <sup>13</sup>	2	22 <sup>14</sup>

The aforementioned maximum group sizes and professional-child ratios are applicable to activities both inside and outside the childcare centre. The operator demonstrates that the professional-child ratios are met by means of an overview of the deployed professionals and attendance lists of the children. This also includes the edges of the day.

In line with the rules in the European Netherlands, it is also regulated that operators of childcare centres may use fewer professionals for a maximum of three hours per day if care is provided for at least ten consecutive hours per day. During these hours, at least half the number of professionals must be present as shown in the table above. The framework of the pedagogical policy plan regarding the edges of the day must also be observed. For out-of-school care, the above is only possible on days off from primary school or during school holidays. On other days, out-of-school care may employ fewer professionals for a maximum of half an hour per day.

<sup>9</sup> Including up to three children aged 0 to 1.

<sup>10</sup> Including up to six children aged 0 to 1.

<sup>11</sup> Including up to three children aged 0 to 1.

<sup>12</sup> Including up to six children aged 0 to 1.

<sup>13</sup> Including up to eight children aged 4 to 7 years

<sup>14</sup> Including up to ten children aged 4 to 7 years

For daycare, the numbers largely correspond to the rules applicable in the European Netherlands based on the Childcare Quality Decree. The rules differ on a few points: in the Caribbean Netherlands, for the horizontal groups 0-1 and 1-2, one extra child per professional is allowed. The same applies to the vertical groups 0-2 and 0-4. Currently, these (deviating) numbers are already applicable via the Island Childcare Ordinances. The reason for deviating is that there are (still) insufficiently trained pedagogical professionals on the islands, resulting in a shortage of childcare places; there are waiting lists on Bonaire. Reducing the permitted group size would further increase the pressure on the sector. The BES(t) 4 kids programme is working on a solution in various ways, including making the profession more attractive by enabling better terms and conditions of employment and salaries through a higher childcare compensation. However, this is a process that takes a long time and it is expected that there shall be no visible effect in the short term yet that the allowed group size can be reduced. The evaluation of the law shall explicitly consider the permissible group size and the professional-child ratio.

For out-of-school care, at the request of the industry organisations in the European Netherlands at the time of preparation of this Order, a change was made to the rules on the professional-child ratio: from 1 July 2024, the professional-child ratio in the European Netherlands may be calculated at site level, instead of group level. In that context, a rule shall be added: the operator of a childcare centre must describe in the pedagogical policy plan what considerations have been made in the deployment of professionals and the grouping of children in the basic groups. In the upcoming period, the effects of this change shall be monitored in the European Netherlands. For the Caribbean Netherlands, this change shall initially not yet be implemented, but for the time being the rules that already apply based on the Island Ordinances shall apply. The reason for this is that the results of the monitoring in the European Netherlands can then be awaited. If the results are positive, the rule can then still be implemented in this Order on the occasion of the evaluation of the Childcare BES Act. In addition, there is already a lot coming at the organisations: among other things, the Council of State in its opinion on the Childcare BES Act has already drawn attention to the feasibility of the rules for childcare organisations in the Caribbean Netherlands. Joining the amended regulations in the European Netherlands would mean a change compared to the current rules in the Island Ordinances, and an additional rule in the pedagogical policy plan. Also in the context of manageability, it is not yet following the new regulations in the European Netherlands.

#### *Combining master groups and basic groups*

It is desirable for children to be cared for in their own master group or basic group as much as possible. However, there may be circumstances in which a choice is made to combine these groups. Especially on the islands, there are small organisations where it can be logistically advantageous to combine groups.

Therefore, this Order includes the possibility, if a master group is combined with a basic group, to use the same professional-child ratio as for daycare (see tables with Maximum group size and professional-child ratio above). For this purpose, children from the age of 4 until the age at which primary education ends are considered to be in the 2- to 4-year-old category.

These numbers are in line with the rules applicable in the European Netherlands.

### *Mentor*

As in the European Netherlands, this Order regulates that every child in childcare is assigned a mentor. This applies to both daycare and out-of-school care. The mentor is a professional in the master group or the basic group of the child who monitors the development of the child. The mentor periodically discusses this with the parents. In addition, the mentor is the point of contact for parents with questions about the development and well-being of the child. In this way, parents and children have a fixed contact person who has an overview of the development of the child and can identify (potential) developmental problems.

### *Available space*

It is important that the indoor and outdoor areas where children stay are safe, accessible, and appropriately equipped in accordance with the number and age of the children to be cared for. Specific requirements are therefore included in this Order in this respect, largely in line with the rules applicable in the European Netherlands based on the Childcare Quality Decree.

As in the European Netherlands, it is regulated that childcare centres have a minimum number of square metres of indoor play space and a minimum number of square metres of outdoor play space. After all, children need sufficient space to move and play safely. Moreover, available space can contribute to the pedagogical and educational goals of childcare. Not for nothing is physical space within pedagogy<sup>15</sup> sometimes seen as the "third pedagogue": physical space can challenge a child to explore and learn. After consultation with the Public Entities and various other partners and experts, 3 m<sup>2</sup> of gross indoor play space and 3 m<sup>2</sup> of gross outdoor play space is considered the minimum space required for the health and safety of children and to support the pedagogical and educational goals of childcare.

For indoor play space, it is the total square metres in the group rooms: the length multiplied by the width of the rooms where the children play. If another room is set up as a play area then this space is allocated proportionally to the groups. This means, for example, that a play hall used by several groups can be included. In that case, the gross area of the play hall is divided by the number of groups and this is added to the area of the group room. Cupboards, chairs, tables, and heaters present in the room are not subtracted from the gross surface area. Bedrooms can only be counted if these rooms are actually also used as playrooms. So a permanent bedroom with fixed beds cannot be counted, but a sleeping area with stretchers that can be removed after the children have slept can.

Outdoor play areas should preferably be adjacent to the childcare centre. If an outdoor play area is not adjacent, it is located in the immediate vicinity of the childcare centre and is accessible and safely reachable by the children. For example, if it is a public playground, that playground must actually be open at the times the children are cared for. The outdoor play area covers at least 3 m<sup>2</sup> of gross surface area per child present.

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<sup>15</sup> Within the 'Reggio Emilia approach' of Loris Malaguzzi, the room is considered the third pedagogue, alongside the other children in the group as the first and the pedagogical professional as the second pedagogue.

'Child present' is understood as children present in the childcare centre, not necessarily playing outside.

Currently, the 3 m<sup>2</sup> already applies as a minimum requirement for indoor and outdoor play areas based on the Island Childcare Ordinance of each Public Entity. The Public Entities did issue so-called 'grace periods' to many organisations, granting the organisation a deferral for this requirement. The Inspectorate concludes in its report that many of the organisations do not currently meet the minimum number of square metres for both indoor and outdoor space. It should be noted that in a number of cases, the Inspectorate was unable to find that the outdoor space does not comply due to the lack of floor plans. As a result of this finding, the Inspectorate recommends being 'strict at the gate' by issuing licences for new sites only if they meet the set requirements.

Adapting the physical space requires a large investment in time and money. Moreover, many organisations on Bonaire use rental properties, which makes building adaptations extra difficult. Therefore, this Order contains a transition period until 2030 for indoor play space requirements for out-of-school care. In the meantime, organisations offering out-of-school care must have 2.5 m<sup>2</sup> of indoor play space per child present. The reason for doing this only for out-of-school care is that children in out-of-school care have a lot of outdoor play and activities outside the childcare centre. Children in daycare are more often inside, and then 3 m<sup>2</sup> is necessary for the proper motor development of the children.

In addition, this Order offers the possibility to count so-called 'porches' as indoor space under conditions, to give organisations within the Caribbean context more space to care for children. Porches are covered outdoor spaces, adjacent to the building. The Caribbean climate allows for much of the day to be spent on the porch rather than inside. Childcare organisations indicated that they actually use the porch as indoor space, and therefore consider porches as indoor space. The Cabinet decided to allow porches to be considered as indoor space if a number of conditions are met, namely:

1. the porch should be directly adjacent to the childcare centre;
2. it must have been built as a permanent and solid structure;
3. it must have been built on solid ground (i.e. not sandy soil);
4. it must have been fitted with an enclosure; and
5. it must be covered (no shade cloth).

These conditions are expected to ensure the health and safety of the children. It also regulates that the number of square metres for which a porch may count as indoor space is limited to 18 m<sup>2</sup>. This means that an organisation can care for six additional children in daycare and seven in out-of-school care.

The reason for a limit is that there can always be circumstances under which the children have to go inside anyway - think about noise or smell nuisance due to an environmental factor, or very bad weather - and then the actual indoor space has to be adequate for that. The assessment is that with this number of extra children, that shall always be the case.

Finally, the porch is seen as an extension of an existing master group room. The porch may therefore not be used as an independent master group room.

#### *Additional requirements for physical space*

Besides requirements for indoor and outdoor play space, some other requirements for physical space are being regulated. First of all, childcare centres for children up to the age of 1.5 years must have a separate sleeping area with fixed beds. The sleeping area is tailored to the number of children present. For children over the age of 1.5 years, there must also be space to rest, but this can be in another room using stretchers.

In addition, compared to the European Netherlands, the Order contains two additional rules to be imposed on childcare in the Caribbean Netherlands, because the climate in the Caribbean Netherlands is different from that in the European Netherlands. Firstly, all spaces in a childcare centre must have good ventilation. This is necessary for a healthy indoor environment. An important point of attention in this respect is the CO<sub>2</sub> concentration in the room. The worse the ventilation, the higher the amount of CO<sub>2</sub> in the indoor air. The operator of a childcare centre should be aware that any air conditioning does not necessarily provide fresh air and thus actually worsens air quality over time. Secondly, outdoor areas should be shaded, for example by partial covering. These rules had already been in place pursuant to the Island Childcare Ordinances before the relevant parts of this Order came into force.

#### *Four-eyes principle*

To promote the safety of the children and to prevent criminal offences, in line with the recommendation from the Report of the Independent Commission Investigation Amsterdam Vice Case of April 2011, the Order includes the so-called "four-eyes principle", also for daycare in the Caribbean Netherlands. The four-eyes principle means that a professional can always be seen and heard by another adult. The operator of the childcare centre must describe in the health and safety policy plan how this shall be implemented. Based on the Island Childcare Ordinances, this rule had already been applicable.

The operator of a childcare centre can implement the four-eyes principle by, for example, making it possible for another adult to enter the room at all times, or walk by and look in through a window. The housing of the childcare centre should be designed accordingly. A camera should not be a permanent substitute for the human eye, but should only be used in unexpected situations. A camera should therefore not be used by the operator of a childcare centre as a structural solution to the four-eyes principle.

#### *Support*

Also in the context of safety, this Order states that if only one pedagogical professional is present in the childcare centre, support must be available. The support consists of an adult who is available, can be reached by telephone, and can be at the childcare centre within 15 minutes in case of an emergency. In the event of an emergency, the pedagogical professional must be able to act quickly. For example, if the pedagogical professional has to go to hospital with one of the children, the support can temporarily take care of the other children.

This is similar to the support arrangement in the European Netherlands.

### **3.2.2 Requirements for host parents**

For host parents, rules have been set regarding health and safety. The other parts in respect of which requirements are imposed for operators of childcare centres are not



relevant to host parent care or can be imposed by or pursuant to Island Ordinances. Regarding group size, Section 1.1 of the Childcare BES Act already defines that host parents provide simultaneous care to no more than six children, including the blood relatives or relatives in the descending line of the host parent or their partner. The recognisability of the room and persons is self-evident in host parent care, and master groups and basic groups are not applicable. The four-eyes principle is not feasible for host parent care - as in the European Netherlands - because host parent care is basically a one-person business. However, the quality supervisor can make regular unannounced visits.

#### *Group composition host parents*

The group composition for host parents is tailored to the age categories of the children being cared for. Host parents are allowed to take care of more children the more children are in a higher age category.

The Order states that host parents may offer simultaneous care to a maximum of six children up to the age of 13. The own children of the host parent up to the age of 10 are included in this. This number is reduced if younger children are cared for: a maximum of five children up to the age of 4 may be cared for in the group. If children up to the age of 2 years are cared for then the numbers are even lower: a maximum of four children up to the age of 2 can be cared for at the same time, of which a maximum of two children up to the age of 1.

The aforementioned numbers correspond to the rules applicable in the European Netherlands based on the Regulations on the Quality of Host Parent Agencies, Host Parents, and Host Parent Care Facilities.

#### *Health and safety policy*

Based on the Childcare BES Act, host parents are responsible for the implementation of health and safety policies that result in the health and safety of children in the host parent care being guaranteed as much as possible<sup>16</sup>. This is different from the European Netherlands, where host parent agencies are responsible for the implementation of this policy.

However, there are no host parent agencies in the Caribbean Netherlands. There, the Executive Council of the Public Entity has the task of supporting host parents. However, it is also necessary in the Caribbean Netherlands for host parents to record their health and safety policy in writing. As host parents work alone where a small group is cared for in a domestic setting, it is considered justified and appropriate to the scale that the requirements for the health and safety policy plan are less far-reaching than for operators of childcare centres. In the spirit of the rules applicable in the European Netherlands, it is regulated that the health and safety policy plan contains a concrete description of the health and safety risks posed by the care of children in all areas accessible to children.

#### *Support*

As with childcare centres, host parents are also required to have a support arrangement.

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<sup>16</sup> Childcare BES Act, Section 2.3 Subsection 2 and Section 2.6 Subsection 1(c).



This means that a host parent must have support who is available, can be reached by telephone, and can be present at the care facility of the host parent within 15 minutes in case of emergencies. It is important for the host parent to be able to act quickly in the event of an emergency. For example, if the host parent has to rush a child to hospital, the support can temporarily take care of the other children.

### **3.3 Pedagogical and educational actions**

As explained in chapter 2, in the context of responsible childcare, it is important that operators of childcare centres and host parents organise a pedagogical climate that enables children to learn and develop through play. Pedagogical and educational action within childcare is crucial in this regard. The Childcare BES Act creates, in Section 2.3 Subsection 3, Section 2.4 Subsection 4, and Section 2.6 Subsection 4, the possibility to impose further rules on the pedagogical policy, pedagogical practice, and educational policy in childcare by or pursuant to an order in council. The Act also provides bases in the aforementioned sections to impose further rules by or by virtue of an order in council on the pedagogical policy plan, the pre-school education programme, the educational level of the pedagogical professionals, monitoring the development of children, and signalling particularities, the daily rhythm, and the varied programme of activities, and for quality care and the professional quality culture. This Order elaborates further rules in this respect. The following paragraphs explain these rules in more detail. As with health and safety (paragraph 3.2), a distinction is made between operators of childcare centres, on the one hand, and host parents, on the other.

#### **3.3.1 Requirements for operators of childcare centres**

##### *Pedagogical policy plan*

The Childcare BES Act contains the requirement that operators of childcare centres and host parents record their pedagogical and educational policy in writing and evaluate and adjust it where necessary<sup>17</sup>. This Order contains rules regarding the pedagogical and educational policy plan, including which elements must be described in the pedagogical and educational policy plan.

The pedagogical and educational policy plan of operators of childcare centres must contain at least the elements below. The content largely corresponds to the Childcare Quality Decree in force in the European Netherlands. In addition, most of these rules had already been in force via the Island Childcare Ordinances prior to this Order coming into force, so existing operators of childcare centres should already have prepared a policy plan.

1. How the aspects of responsible childcare are implemented;
2. The way in which particularities in the development of a child or problems are identified and parents are referred to appropriate agencies for further support;
3. How the mentor periodically discusses the information obtained about the development of a child with the parents and how it is made known to the parents and the child which professional is the mentor of a child;
4. The working method, maximum size, and age structure of the master groups and basic groups, and the nature and organisation of activities where children may leave the master group or basic group;

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<sup>17</sup> Childcare BES Act, Section 2.3 Subsection 2.

5. How children can get used to a new master group or basic group in which they shall be cared for;
6. The activity programme and daily rhythm;
7. The working language in the childcare centre;
8. The quality goals the childcare centre wants to achieve and a plan of approach, planning, and periodic evaluation of the same;
9. The distribution of tasks, roles, and responsibilities within the childcare centre.

In addition, the daycare should also include the following elements in the policy plan:

10. How developmental and learning delays are prevented and combated and the programme used for pre-school education;
11. The way in which the development of the child is monitored and encouraged, striving for a continuous development line with primary education;
12. The way in which, with the consent of the parents, knowledge about the development of a child is transferred to the school when the child transfers to primary school.

If applicable, the pedagogical policy plan should also include the following points:

13. The moments when - subject to the rules applicable to them - a responsible deviation is made from the generally applicable professional-child ratio;
14. The nature and organisation of activities that allow children to leave the master group, master group room, or basic group;
15. The tasks that trainee professionals, trainees, and volunteers can perform in childcare and the way in which they are supervised and deployed in doing so;
16. How children with additional support needs are cared for and how external organisations are involved;
17. In daycare: the way in which the emotional safety and stability of children is safeguarded by working with permanent professionals as much as possible;
18. In out-of-school care: the handling of the basic group during activities in groups larger than 30 children.

Compared to the prescribed content of the policy plan in the European Netherlands, points 6, 7, 10, and 16 were added for the Caribbean Netherlands. Points 6, 10, and 16 are explained in the following paragraphs. Regarding the working language in the childcare centre (point 7), in view of the multilingualism on the islands, Section 2.7 Subsection 1 of the Childcare BES Act states that Papiamentu and Dutch can be used as the working language in childcare on Bonaire, and English and Dutch on Saba and St. Eustatius. The Act also provides space for professionals to communicate with children in another language if the development of a child or the situation requires this<sup>18</sup>. In the policy plan, the operator of a childcare centre should clarify which language is used as the working language in the childcare centre.

#### *Education, training, and experience requirements for pedagogical professionals*

The quality of childcare and the safety of the children depends on well-trained professionals. In order to effectively stimulate children in their development, it is important that the professionals have completed pedagogical training. Among other things, the professionals must be equipped to monitor the development of children,

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<sup>18</sup> Childcare BES Act, Section 2.7 Subsection 2.

match the offer to the developmental stage of the children in the group, and differentiate between children where necessary. They should also design the activity programme in such a varied way and with an emphasis on playful learning that children can discover and develop their talents. The expectation<sup>19</sup> is that pedagogical professionals with vocational pedagogy training (level 3)<sup>20</sup> can provide this.

Based on the Island Childcare Ordinances of Saba and St. Eustatius, prior to the entry into force of this Order, basic vocational training (level 2)<sup>21</sup> is the minimum requirement. On Bonaire, level 3 is already required, but there is a transition period until July 2025. Currently, about two-thirds of the pedagogical professionals meet the applicable requirements. Training is facilitated from the BES(t) 4 kids programme.

Considering the large discrepancy between the number of well-qualified pedagogical professionals needed and the available supply, it is expected that it is not feasible that all pedagogical professionals, now and in the future, (shall) have level 3<sup>22</sup>. Therefore, the following is included in this Order.

Until 1 January 2030, the basic requirement is a completed basic vocational training (level 2) aimed at pedagogy. This transition period allows childcare organisations to allow current professionals to undergo training. This meets the desire of childcare organisations.

From 1 January 2030, a so-called "team qualification" shall apply. That is, the team as a whole must operate at level 3, but not all individual employees need to have level 3 if certain conditions are met. The team qualification includes two categories:

- A. at least 2/3<sup>rd</sup> of the professionals of a childcare centre must at least
  - be educated at level 3; or
  - be trained at level 2, and have an experience certificate demonstrating that they are acting at level 3.
- B. A maximum of 1/3<sup>rd</sup> of the pedagogical professionals of a childcare centre may
  - be a trainee;
  - be trainee professionals; or
  - be trained at level 2.

If the operator wants to deploy category B, then

- 1) there must always be someone from category A on the group as well;
- 2) the childcare centre must provide supervision for the category B pedagogical professional;

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<sup>19</sup> Based on Dutch European regulations, and on discussions with local parties and the Education Inspectorate.

<sup>20</sup> Vocational training refers to level 3 of Senior Secondary Vocational Education (MBO-3)

<sup>21</sup> Basic vocational training refers to level 2 of Senior Secondary Vocational Education (MBO-2)

<sup>22</sup> A factor here is that the MBO-3 course on Bonaire is offered in Dutch and this creates a language barrier for some pedagogical professionals. In addition, there is no MBO-3 training for pedagogical professionals on the Windward Islands. To retrain the current pedagogical professionals, the BES(t) 4 kids programme has entered into a partnership with the National Institute for Professional Advancement (NIPA) on St. Maarten. A structural solution is being worked on from OCW.

- 3) the childcare centre must take the stage of training, experience or expertise of the pedagogical professional at that time into account; and
- 4) the childcare centre must describe in the pedagogical policy plan which tasks the category B pedagogical professional is allowed to perform.

By imposing these conditions on category B, it is expected that the required level of quality can be achieved. The review of the Act shall pay specific attention to this.

In addition to the team qualification, a pedagogical professional must be present at the childcare centre for half the week who has completed middle management training (level 4). This pedagogical professional can in any case play a role in the support structure (see paragraph 3.5) and in identifying particularities. This requires more specialised knowledge that cannot be expected from every pedagogical professional. In addition, it is obvious that this pedagogical professional guides and supports the category B professionals. Moreover, the pedagogical professional at level 4 can play a role in the development and implementation of the pedagogical and educational policy, for example in the area of the pre-school education programme, and in the involvement of parents in the development of a child. To ensure that the pedagogical professional at level 4 is capable of doing the above, the Order prescribes that their training has demonstrably addressed:

- a) working with early childhood education programmes;
- b) stimulating the development of young children, particularly in the areas of language, numeracy, motor skills, and socio-emotional development;
- c) monitoring the development of toddlers and tailoring the preschool education provision accordingly;
- d) identifying particularities in the development of children;
- e) involving parents in the stimulation of the development of children; and
- f) shaping the substantive connection between pre- and early childhood education and a careful transition of the child from pre- to early childhood education.

These requirements correspond to the requirements for the additional training that pedagogical professionals in pre-school education in the European Netherlands must undergo on the basis of the Basic Conditions Pre-School Education (Quality) Decree.

Finally, the childcare centre should ensure that at least one adult qualified to administer first aid to children is always present in the childcare centre.

#### *Requirements for pre-school education programme in daycare*

The Explanatory Memorandum to the Childcare BES Act describes that it can be assumed that the conditions in the Caribbean Netherlands (socio-economic, language) are such that the majority of children in the Caribbean Netherlands are at high risk of developmental delays. Therefore, the Act assumes childcare as an integral provision: care that is accessible to all children and where children are playfully and purposefully stimulated in their development for the purpose of preventing and combating development and learning disadvantages. This means that the Childcare BES Act requires daycare to offer a pre-school education programme<sup>23</sup>. This Order sets further rules for that programme.

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<sup>23</sup> Childcare BES Act, Section 2.4 Subsection 3.

As in the European Netherlands on the basis of the Basic Conditions Early Childhood Education (Quality) Decree, it is specified that the programme stimulates the development of children in a structured and coherent way in the areas of language, maths, motor skills, and socio-emotional development. During consultation sessions, childcare centres indicated that this is still too broad a framework for the Caribbean Netherlands. Therefore, this Order adds that the programme must stimulate the development of children playfully, given their young age. Also, the programme must fit the developmental phase of the children. Thus, as the children get older, the programme must increase in terms of difficulty. Finally, the programme must fit the Caribbean context. Themes should therefore capture the imagination of the children. Whereas a common theme in the European Netherlands is 'the four seasons', an appealing theme for the Caribbean Netherlands is, for example, the underwater world.

Childcare centres are free to choose a programme as long as the programme meets the imposed requirements. The professionals play an important role in the quality of the educational provision and the pedagogical quality of care. The programme serves to support the pedagogical and educational actions of the professionals.

#### *Monitoring the development of children and identifying particularities*

As described earlier, it is important to monitor the development of children so that the childcare offer can be adapted to their developmental stage. This requires adequately trained professionals. Another reason why monitoring the development of children is important is to be able to identify particularities in the development of children. Although every child has its own pace of development, the majority often follows roughly the same developmental path. However, there are children who have special needs, such as a delay or an advantage in learning and development. This Order stipulates that if the childcare centre or host parent identifies such particularities, they must be recorded in the file. In this way, the specific support needs of children can be addressed. If particularities in the development of a child have been identified and recorded in the file of the child, the childcare centre should periodically reflect on the development of the child with the professionals involved. Where necessary, parents can be referred to appropriate agencies for further support. Section 6 on the care structure explains this in more detail.

To track the development of children, it is prescribed that childcare centres systematically record the development of children. This includes development data in the areas of language skills, numeracy skills, motor skills, and socio-emotional skills. Based on the data, professionals can discuss the development of a child with the parents. Professionals can give advice and information to parents about the child and vice versa. Thus, an 'educational partnership' can develop between parents and childcare. For example, parents can continue practising language at home, in line with childcare observations and themes.

In this context, with parental consent, the data may be shared with the primary school, see also chapter 5.

#### *Daily rhythm and varied activity programme*

The present Order stipulates that operators of childcare centres must implement a concrete daily rhythm at the childcare centre. This is part of the pedagogical and

educational policy plan. A familiar daily rhythm in childcare gives children, parents, and professionals something to hold on to. The pedagogical and educational goals underlying responsible childcare, see chapter 2, must be reflected in the daily rhythm. The daily rhythm consists of fixed elements, e.g. dropping off, playing, eating, and sleeping. At the same time, there is room for flexibility, so that the offer can be adapted to the developmental stage and support needs of children. Because children know what is coming, an (emotionally) safe environment is created. Moreover, it is clear to parents when the drop-off and pick-up times are.

There is room in the daily rhythm for a varied activity programme. These can include activities aimed at stimulating the development of children through play - such as the activities of the pre-school education programme -, activities aimed at discovering and developing talents - such as sports activities, drama, music lessons, and excursions into nature - and activities aimed at relaxation. Moreover, multiple goals can be achieved through an activity. For instance, a relaxing activity such as reading aloud can simultaneously stimulate the language development of children.

The activity programme should therefore be varied and balanced. This is why the Order states that the activity programme must include both activities that promote relaxation and activities that encourage development. A particular type of activity should not dominate. For example, out-of-school care should not consist solely or mainly of homework supervision. Out-of-school care that offers mainly homework assistance does not fall under the heading of childcare and is therefore not eligible for childcare funding from the Central Government. From the BES(t) 4 kids programme, it has been signalled that out-of-school care tends to offer a lot of homework assistance, as there are schools that give a proportionately high amount of homework. It is obvious that homework is done (to a large extent) under the guidance of the out-of-school care. Parents also expect this to some extent. From a pedagogical point of view, individual homework for young children has little added value, and too much homework is also ineffective for older children. Children learn more from play and interaction.

School boards, operators of childcare centres, and the Public Entity are required by law to hold consultations twice a year, on the initiative of the Public Entity, on the continuous development and learning line<sup>24</sup>. In the so-called pedagogical network, agreements can be made on the importance of a varied programme, limited homework, and the role of out-of-school care in this. It also requires expectation management amongst parents. The Public Entity and the Ministry of Education, Culture and Science (OCW) shall be / are launching an awareness campaign to make this issue discussable.

#### *Quality care and professional quality culture*

The Childcare BES Act creates the possibility of further rules on quality care and professional quality culture within the childcare centre<sup>25</sup>. The intention is that the operator and employees of a childcare centre work together continuously to improve the quality of the childcare centre. Quality assurance means that this is done in a systematic and structured way and forms an implicit part of the working method.

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<sup>24</sup> Childcare BES Act, Section 2.16 Subsection 1(b).

<sup>25</sup> Childcare BES Act, Section 2.4 Subsection 4(j).

Compared to the European Netherlands, this is a new element in the Act. The desire to draw attention to this came, on the one hand, from the Public Entities in order to give more direction to operators of childcare centres on how to work on continuous quality improvement. On the other hand, the Inspectorate of Education also indicated that for quality supervision it is desirable to have a basis for addressing childcare centres on the realisation of a process of continuous quality improvement.

Operators of childcare centres should lay down the quality policy in writing in the pedagogical policy plan. It should at least contain a description of the quality goals and a plan of approach to achieve the goals. This obligation encourages the childcare centre to pay continuous attention to quality improvement and to actually take steps.

In addition, the childcare centre should ensure a concrete description of the tasks, roles, and division of responsibilities within the childcare centre. The operator of a childcare centre is free to choose a particular organisational form and structure, as long as the childcare centre meets all quality requirements. But it should be clear to all involved within the childcare centre who has what tasks, roles, and responsibilities. If everyone's tasks, roles, and responsibilities are clear then people can hold each other accountable for the improvement of the quality.

### **3.3.2 Requirements for host parents**

For host parents, rules are imposed on the education and training requirements and the activity programme. The other parts regarding pedagogical and educational actions on which requirements are imposed for childcare centres, are either not applicable to host parent care or are delegated in the Childcare BES Act to further regulations by or pursuant to Island Ordinances. For example, the Act requires host parents to lay down the pedagogical policy in writing<sup>26</sup>, but stipulates that further rules on the pedagogical policy can be laid down by or pursuant to an Island Ordinance, instead of by order in council<sup>27</sup>. The reason to regulate this for host parent care via the Island Ordinance is because the specific local context may determine the interpretation of host parent care. Given the setting and scope of host parent care, host parents are not required to offer a pre-school education programme. However, a host parent must meet the definition of responsible childcare, and thus also stimulate the development of children in the areas of language, maths, motor skills, and socio-emotional skills.

#### *Education and training requirements*

As in the European Netherlands, a level 2 pedagogical education is set as a minimum training requirement for host parents. Prior to this Order coming into force, this requirement had already been applied on the basis of Island Ordinances. In addition, host parents must be qualified in the administration of first aid to children. Host parents must also attend annual child first aid training.

#### *Monitoring the development of children and identifying particularities*

The Order also regulates the monitoring of the development of children for host parent care so that particularities in the development of a child can be spotted. This allows the offer and guidance of the host parent to be adapted to the developmental stage of the

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<sup>26</sup> Childcare BES Act, Section 2.3 Subsection 2.

<sup>27</sup> Childcare BES Act, Section 2.6 Subsection 5(f).



children. Parents can be referred to appropriate agencies for further support in the development of their child, where appropriate.

Also for the purpose of parent involvement and proper transfer and cooperation with primary education, this Order regulates that host parents record their observations in terms of particularities in the file of the child. The Public Entity must start offering support to host parents in this area, for example by supporting host parents with a (simple) observation tool that helps them observe and record the development of children.

#### *Activity programme*

Host parents must also offer a varied activity programme, which includes room for the development of children, the development of talents, as well as relaxation.

### **3.4 Childcare support structure by the Public Entity**

Paragraphs 3.1, 3.2, and 3.3 describe the quality requirements that childcare in the Caribbean Netherlands must meet. The operators of childcare centres and host parents are responsible for this. However, this demands a lot from them; the Final Report Childcare Quality Assessment in the Caribbean Netherlands of the Inspectorate of 3 March 2023, shows that much still needs to be done to achieve the desired level of quality. In order to support operators of childcare centres and host parents in achieving and maintaining the required quality, the Act provides that the Executive Councils of the Public Entities shall ensure guidance and support to the childcare centre or host parent in providing responsible childcare (also called "support structure"), including pedagogical support and advice. The Act provides for the possibility of establishing further rules by order in council regarding the subjects and tasks in respect of which the Executive Council provides for a support structure<sup>28</sup>.

The present Order regulates - in line with paragraph 5.3.2 of the Explanatory Memorandum to the Act - what the Executive Councils must provide in the context of the support structure in the field of pedagogical support and advice in terms of support to operators of childcare centres and host parents. See paragraph 3.5.2 on this in more detail. It is up to the Public Entities to set up the support structure effectively and efficiently, whereby the Public Entities are also expected to cooperate with each other, where possible.

### **3.5 Support structure for children with additional support needs**

The Childcare BES Act includes the aim of an inclusive childcare system: a childcare system that is in principle accessible to all children, insofar as this is justified from a medical, pedagogical, psychological, and organisational point of view. To achieve this, the Act introduces a tiered support structure, in which responsibilities are assigned to the operators of childcare centres and host parents, the Public Entity and the Expertise Centre Education Care (hereinafter referred to as: the EOZ). The table below contains a schematic representation of the support structure.

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<sup>28</sup> Childcare BES Act, Section 2.3 Subsection 5.



	<b>baseline</b>	<b>1<sup>st</sup> line</b>	<b>2<sup>nd</sup> line</b>	<b>3<sup>rd</sup> line</b>	
<b>Role</b>	Care	Pedagogical support	Expertise	Specialist support	Plus care
<b>Task</b>	Signalling	First point of contact for childcare for pedagogical advice and support.	Advises on supervision plan; Organises care based on diagnosis / observation; Referrer plus care.	Provides specialist support in childcare settings	Additional support for children with special needs, possibly by means of a plus group.
<b>Responsible</b>	Childcare	Public Entity	Educational care expertise centres	Care providers by referral	Childcare / out-of-school care designated by Public Entity

The Childcare BES Act provides for the possibility of establishing further rules by or pursuant to an order in council on elements of the support structure, including on the supervision plan for children if particularities are identified<sup>29</sup>, the pedagogical support and advice by the Public Entity<sup>30</sup>, and the conditions for plus care<sup>31</sup>. In addition, further rules on the health data to be processed should be established by order in council<sup>32</sup>. These further rules are explained in chapter 5 on data provision. Finally, the Act also offers the possibility to further regulate the tasks of the EOZ<sup>33</sup>, but as the tasks are sufficiently elaborated in the Act, there is currently no reason to do so.

The paragraphs below explain, respectively, the details regarding the supervision plan, pedagogical support and advice, and the conditions for plus care.

### **3.5.1 Supervision plan**

The starting point of the care structure is that all children, including those with additional support needs, are cared for within regular groups as much as possible. Based on the law, the operator of a childcare centre or the host parent is responsible for creating an offer that matches the developmental stage and support needs of the child.

The moment an additional support need in the development of a child is identified during intake or during care, the childcare centre or host parent is responsible for the preparation of a supervision plan for the child concerned. An individual supervision plan only needs to be drawn up if the support need is of such a nature that it actually requires an adapted approach for the child concerned (additional support need). In the supervision plan, the operator of a childcare centre or the host parent describes -

<sup>29</sup> Childcare BES Act, Section 2.4 Subsection 4(l) and Section 2.6 Subsection 4(c).

<sup>30</sup> Childcare BES Act, Section 2.3 Subsection 5.

<sup>31</sup> Childcare BES Act, Section 2.17.

<sup>32</sup> Childcare BES Act, Section 2.19 Subsection 5.

<sup>33</sup> Childcare BES Act, Section 2.18 Subsection 2.

whether or not in consultation with other partners involved - how it pays attention to the development of a child. This Order stipulates that the plan must at least describe:

1. The initial situation: what behaviour does the child display and what additional support needs does it show?
2. The approach and planning: what support shall the childcare centre or host parent offer to the child? Shall other parties be involved, and if so, which ones? What is the planning?
3. The intended result: what result does the childcare centre or host parent want to achieve with the approach?
4. Expiry and evaluation: until when does the approach run and how is the approach evaluated (in the interim) by the childcare centre or host parent?

These requirements for the supervision plan provide clarity to the operators of childcare centres and host parents on what the minimum requirements of the plan should be. Moreover, it also allows the other parties in the support structure, such as the EOZ and the provider of pedagogical support and advice, to know what they can expect from a supervision plan from childcare centres and host parents.

The EOZ can advise the operator of a childcare centre or host parent in the establishment of the supervision plan; this task of the EOZ is laid down in the law<sup>34</sup>. The childcare centre or host parent is responsible for ensuring that the supervision plan is actually implemented. After all, the ultimate goal is to ensure that the child receives the right support in childcare so that the child can develop optimally. For support in the implementation of the supervision plan, the childcare centre or host parent can turn to the pedagogical support and advice, see paragraph 3.5.2. In any case, the Order regulates that the childcare centre or host parent must consult with the provider of pedagogical support and advice when identifying an additional support need.

It is desirable for the childcare centre or host parent to actively involve the parents of a child in the supervision plan so that the support a child receives in care and at home is aligned. The childcare centre or the host parent is therefore required to involve the parents at least in the creation of the plan. During the discussion, the childcare centre or the host parent may, if necessary, point the parents to the possibilities of support in the home situation.

If a child also receives support from other parties, for example in the home situation or at school, it is desirable that the relevant parties coordinate their support and articulate it in an integrated plan. The childcare centre or the host parent is then responsible for the creation and implementation of the childcare part of the integrated plan. Insofar as the processing of health data is necessary for this purpose, a basis can be found for this in Section 2.19 of the Childcare BES Act, with the prior consent of the parents.

### **3.5.2 Pedagogical support and advice**

As described earlier, the regular groups form the basis of the support structure for children in childcare with additional support needs. This demands a lot from the pedagogical professionals in the groups: they have to identify what support the children in the group (individually and collectively) need, and adjust the offer accordingly. Where in the European Netherlands childcare organisations often offer support to the

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<sup>34</sup> Childcare BES Act, Section 2.18 Subsection 1(a).

pedagogical professionals themselves within the organisation - for instance by the pedagogical policy officer or remedial educationalist employed by the organisation - this is not the case in the Caribbean Netherlands. Moreover, given the often small size of the organisations in the Caribbean Netherlands, this is also not feasible. Therefore, the support structure has chosen to organise pedagogical support and advice island-wide. This means that the Executive Council is responsible for the organisation of this pedagogical support and advice. This is the so-called 1<sup>st</sup> line, which should provide external reinforcement to the pedagogical professionals in the groups.

Experience with this has already been gained on the islands. In the run-up to the Act, pilots were launched on the various islands to provide additional support to children with a support need. Part of these pilots was the deployment of pedagogical coaches. These coaches support pedagogical professionals and/or host parents in identifying a support need in children. Based on the experiences gained in the pilots, this Order specifies the tasks for the structural situation for pedagogical support and advice as follows.

The first task of pedagogical support and advice is to act as the first point of contact for childcare centres, pedagogical professionals, and host parents in case they need pedagogical support and advice. The request of the childcare centre, pedagogical professional or host parent for support is thus central<sup>35</sup>. The request for support can be very broad: offering all aspects of responsible childcare within the basic group, master group or group with a child with a particularity in its development or additional support need. In many cases, the question of the pedagogical professional or host parent concerns the relationship between the pedagogical professional or host parent and the child or group: how can the professional or host parent adjust their actions to better stimulate the child or group in its development? The pedagogical professional or host parent may also have questions about how to discuss something with parents.

In performing this task, the Public Entity ensures that the pedagogical support and advice is accessible to pedagogical professionals and host parents. Although the pedagogical support and advice is positioned outside the organisation, the intention is that pedagogical staff and host parents experience the pedagogical support and advice as a collegial sparring partner. The provider of pedagogical support and advice works on call and on an itinerant basis: in case of a request for support, the provider goes to the childcare location. The pedagogical support and advice provider can observe the childcare facility to get a good picture of the situation so that the provider can offer concrete tips and advice to the childcare centre, pedagogical professional or host parent.

The second task of the pedagogical support and advice is to act as the front door for the second-line support; the second-line support is assigned in the Act to the EOZ in Section 2.18 Subsection 1. If a pedagogical professional or host parent notices something in the development of a child and suspects that the child needs additional support beyond the capabilities of the pedagogical professional or host parent, the pedagogical professional or host parent engages the pedagogical support and advice. The pedagogical support and advice observes - with the consent of the parent - the child in the group to interpret signals: is the perception of the childcare centre that a child has a particularity shared? If pedagogical support and advice as well as the pedagogical professional and/or host

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<sup>35</sup> Unlike the EOZ (2<sup>nd</sup> line), which focuses on the support needs of an individual child.

parent are of the opinion that there is a particularity in a child, the EOZ is contacted - with the consent of the parent. If the parent agrees, the child is discussed - preferably in the presence of the parent - in a multidisciplinary consultation. Follow-up steps are outlined in the multidisciplinary consultation, see further paragraph 5.3.1 of the Explanatory Memorandum to the Act.

The third task of pedagogical support and advice is to support pedagogical professionals in the preparation and implementation of supervision plans for an individual child. To this end too, the provider of pedagogical support and advice can - with the consent of the parents - observe in the group, in order to provide the pedagogical professional or host parent with tips and advice on how to best support the child.

Finally, the Executive Council should promote cooperation between pedagogical support and advice with first-line parenting support and youth health care. After all, the Executive Council is also responsible for these tasks. Aligning the tasks contributes to the integrality of support to the child in the family.

### **3.5.3 Plus care**

Plus care is defined in the Childcare BES Act as childcare covered by this Act where additional care and support is provided to children who need it, for example because of a mental or physical disability, developmental delay or behavioural problems. In practice, there shall be exclusive plus groups - groups where only children with additional support needs are cared for - and compound plus groups - groups where both children without and with additional support needs are cared for. The Act allows for further specification of the conditions of plus care, in order to distinguish it from regular care.

This Order sets the following additional rules for plus care. In the case of an exclusive plus group, i.e. a group where only children with additional support needs are cared for, a different professional-child ratio applies: for daycare 1 to 3 and for out-of-school care 1 to 5.

Secondly, the space and play materials of the plus care, both of exclusive plus groups and of a composed plus group, should be equipped to meet the additional support needs of the children in the group. For example, for children with autism spectrum disorder, a low-stimulation room could be considered, and for children with physical disabilities, a wheelchair-accessible room.

Thirdly, the pedagogical professional or host parent, whether of an exclusive plus group or a compound plus group, must be equipped to actually provide the children with additional support needs with the support they require. It is expected that at least one pedagogical professional should be present in the group with an appropriate, completed level 4 training, or a level 3 training with a level 4 experience certificate. However, the signal has been received from the BES(t) 4 kids programme that this cannot be realised immediately when the Act comes into force; after all, taking the level 4 training takes time. Therefore, this Order contains a transition period until 2030 for this training requirement. In the meantime, pedagogical professionals or host parents in plus care must have at least an appropriate completed training at level 3.

Fourthly, the childcare centre offering plus care must describe in the pedagogical policy plan how the pedagogical policy is designed to suit the support needs of the children in the group.

*Plus care licence*

The Childcare BES Act stipulates that the Executive Council grants the licence for plus care<sup>36</sup>. This Order stipulates that the licence for plus care is granted for the term of three years. The Executive Council may also revoke or suspend this licence if it appears that no children with an additional support need are taken care of during a period to be determined by or pursuant to an order in council<sup>37</sup>. In this Order, this is given substance with a term of one year.

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<sup>36</sup> Childcare BES Act, Section 2.1 Subsection 3.

<sup>37</sup> Childcare BES Act, Section 5.11 Subsection 2.

#### 4. Further rules childcare funding

Good childcare places high demands on childcare organisations and pedagogical professionals. Without financial support from the government, childcare that meets the requirements of the Act is unaffordable for most parents. As a starting point for the Act and in line with the already existing set-up of childcare in the Caribbean Netherlands, a public system implemented privately has been chosen. In this sense, it is a public system because the funding is almost entirely borne by the Central Government. An essential part of the Act is therefore the funding of childcare organisations offering childcare.

Given the limited size of the islands and the undesirable effects of free pricing in the Childcare BES Act, regulation of market forces on the islands is necessary. For example, childcare organisations that want to be eligible for funding from the Central Government do not have the freedom to set their own rates. This imposes requirements on the funding from the Central Government. The Childcare BES Act sets the framework for this, but these require elaboration in lower regulations, which are included in this Order.

Paragraph 4.1 discusses the level of parental contribution. Paragraph 4.2 explains the childcare compensation. Subsequently, Paragraph 4.3 deals with rules regarding the possibility of capping the number of half-day sessions of childcare. Paragraph 4.4 discusses further rules on structural childcare, one of the conditions for providing childcare compensation. Finally, Paragraph 4.6 discusses flexible care and the funding of plus care.

##### 4.1 Level parental contribution

The method of calculation and the amount of the parental contribution are laid down in this Order for daycare and out-of-school care.

##### *Parental contribution until 2027*

In the years 2025 and 2026, the parental contribution remains at the 2024 level.

##### **Overview 1: Level of monthly parental contribution 2025 and 2026 for the maximum number of half-day sessions per month**

In \$	Bonaire	St. Eustatius	Saba
Daycare	100	75	75
Out-of-school care	100	40	40

The exact parental contribution for 2025 and 2026 and subsequent years are set out in this Order. If a parent purchases less childcare, the parental contribution shall be lower. The parental contribution for babies up to the age of 1 is the same as the parental contribution for daycare for children in the age of 1 to 3.

As stated in the Explanatory Memorandum, the Cabinet prefers care in a professional setting of a childcare centre for most children. Host parent care is seen as complementary to the regular childcare system. The Cabinet does not want care in childcare centres to be less financially attractive for parents than host parent care. The

parental contribution for host parent care is therefore the same as the parental contribution for the relevant type of care at a childcare centre within the Public Entity.

#### *Parental contribution from 2027*

As expressed in the Explanatory Memorandum to the Childcare BES Act, the starting point of the Cabinet is that the level of parental contribution in the European and Caribbean Netherlands should be as similar as possible. This means that from 2027 the parental contribution shall be 4% of the cost price of the relevant type of childcare on the island. The cost price consists of the childcare compensation (96%) and the parental contribution (4%). The parental contribution shall then be 4.17% of the childcare compensation ( $4\%/96\% \times 100\% = 4.17\%$ ).

## **4.2 The childcare compensation**

### *Level of the childcare compensation*

The level of the childcare compensation is based on a cost price study carried out and the policy decisions made in the process. The House of Representatives was informed of this on 18 October 2023<sup>38</sup>. A policy response was sent to the House of Representatives on 4 April 2024<sup>39</sup>.

In setting the amount of the childcare compensation per half-day, a distinction is made between the type of care and the cost of living within the Public Entity. An additional compensation is paid for babies up to the age of 1.

This Order establishes the level of the childcare compensation, distinguished by care type, for the coming years and up to and including 2030. In addition, the childcare compensation shall be adjusted annually for the development of the cost of living on the basis of the Dutch Caribbean consumer price index determined by Statistics Netherlands (CBS). The childcare compensation shall also be adjusted if the statutory gross minimum hourly wage for the Caribbean Netherlands is increased. The options for amending the childcare compensation are explained in more detail in paragraph 4.3.

Overview 2 shows the level of the childcare compensation per year from 1 July 2025 up to 2031 for the three islands. These are tentative amounts at this time. In autumn 2024, the subsidy amounts of the temporary subsidy scheme for 2025 shall be finalised and this shall also lay the basis for the childcare compensation for subsequent years. The amount of the childcare compensation shall be included in the final Order.

### **Overview 2: Childcare compensation daycare development: preliminary figures (excluding adjustment for price development) 2025 - 2030**

Compensation per half-day daycare	2025	2026	2027	2028	2029	2030
<b>Bonaire</b>	\$22.40	\$26.00	\$28.00	\$29.00	\$30.00	\$31.00
<b>St. Eustatius</b>	\$24.80	\$28.90	\$31.10	\$32.20	\$33.30	\$34.40
<b>Saba</b>	\$26.40	\$30.70	\$33.00	\$34.20	\$35.40	\$36.60

<sup>38</sup> Parliamentary Letter: Report Funding Childcare Caribbean Netherlands dated 18 October 2023 – Parliamentary Papers 31322 no. 514

<sup>39</sup> Collective Letter Childcare in the Caribbean Netherlands dated 4 April 2024 – Parliamentary Papers 31322 no. 527

**Overview 3: Childcare compensation out-of-school care development: preliminary figures (excluding adjustment for price development) 2025 - 2030**

Fee per half-day out-of-school care	2025	2026	2027	2028	2029	2030
<b>Bonaire</b>	\$25.40	\$25.40	\$26.00	\$27.00	\$28.00	\$29.00
<b>St. Eustatius</b>	\$28.10	\$28.10	\$28.90	\$30.00	\$31.10	\$32.20
<b>Saba</b>	\$29.90	\$29.90	\$30.70	\$31.90	\$33.00	\$34.20

The 2023 Price Level Survey of Statistics Netherlands (CBS) has revealed that compared to the level on Bonaire, the cost of living is on average 11% higher on St. Eustatius and 18% higher on Saba<sup>40</sup>. As the cost level survey has made it clear that there are differences in childcare costs between the Public Entities, the childcare compensation for St. Eustatius and Saba is increased by the relevant percentage.

From 2027, the childcare compensation shall be set at 96% of the cost price. In 2025 and 2026, the level of the childcare compensation shall take the level of the parental contribution per half-day session for the relevant type of care on the island into account. The childcare compensation in those years shall be lower than 96% of the cost price. The cost survey shall be repeated periodically, as expected every five years, and the childcare compensation shall be adjusted based on this.

*Surcharge for babies*

For babies up to the age of 1, an additional compensation, the baby surcharge, shall be provided based on the maximum number of babies a pedagogical professional is allowed to care for and the additional costs involved. The baby surcharge shall be \$6 dollars per half-day per baby from 2024. As this is a surcharge on top of the compensation, the amount shall not be increased for St. Eustatius and Saba. However, the baby surcharge shall be included in the adjustments to the childcare compensation (see paragraph 4.3 on that subject).

*Childcare compensation host parent care*

For host parent care, the same childcare compensation applies within the relevant Public Entity for daycare and out-of-school care as for childcare centres.

Overview 3 details the method of calculation of the childcare compensation per half-day period.

**Overview 3: Further explanation of childcare compensation determination**

The type of childcare

*Daycare*

To this end, daycare is based on a maximum number of half-day sessions of 2 per day, 20 days per month. So 40 half-day sessions per month.

*Compensation for half-day care* = Cost based on examination minus parental contribution per month / 40.

<sup>40</sup> Price Level Survey Caribbean Netherlands 2023, Statistics Netherlands (CBS), 8 December 2023.



*Babies up to the age of 1*

For babies up to 1 year old, a separate allowance on top of the usual childcare compensation for daycare will be introduced based on a pedagogical staff-child ratio of 1 to 4.

*Out-of-school care*

For out-of-school care, the cost price should take the fact into account that the out-of-school care can claim 2 half-day sessions during the holiday period and study days alongside this.

*Fee for half-day out-of-school care* = cost price based on examination minus parental contribution per month plus extra costs for holidays / 20 + (number of holidays per year / 12)

*Host parent daycare*

*Compensation for half-day host parent care* = cost price based on examination minus parental contribution per month / 40

*Host parent care out-of-school care*

*Compensation for half-day out-of-school care* = cost price minus parental contribution based on examination per month plus extra costs for holidays / 20 + (number of holidays per year / 12)

*The cost level on the island*

It is known that the cost of living varies on the islands. For this, the childcare compensation is adjusted on the relevant island.

*The additional support needs of a child*

There shall be a separate review of compensation for children with additional support needs.

### **4.3 Change in childcare compensation and baby surcharge**

The amounts of the childcare compensation and the baby surcharge are indexed annually with effect from 1 January. In addition, Our Minister may change these amounts in connection with an increase in the statutory minimum wage for the Caribbean Netherlands. Both possibilities are detailed below.

*Indexation*

A first reason to change the childcare compensation and the baby surcharge has to do with the annual indexation. For the indexation, the development of the consumer price index figures for Bonaire, St. Eustatius, and Saba of the third quarter of the current year is compared with the third quarter of the previous year. The subsidy amounts are adjusted based on this price indexation. This concerns a change of amounts according to a fixed system. Using that fixed methodology, the amounts laid down in the Order are amended by Our Minister.

Although it is exceptional, there may be a negative trend in the consumer price index. This would mean that the childcare compensation would be set lower. The Cabinet considers this undesirable. The cost price survey showed that childcare organisations incur more costs than what they receive in subsidy. As a result, it was decided to increase childcare compensation and childcare organisations were also asked to take a critical look at their operations. Moreover, it takes childcare organisations time to make business changes. Childcare organisations also face major challenges to further improve childcare quality. After all, to achieve the desired quality, major steps still need to be taken. Here, it is important that childcare organisations have sufficient resources, but

also that they can assume that childcare compensation shall not show a negative development. Therefore, this Order regulates that in case of an indexation that would result in a downward adjustment of the childcare compensation and the baby surcharge, the amounts shall remain unchanged. The omitted negative indexation is set off against positive indexations over the following period(s). Thus, the net result is positive and the childcare compensation and baby surcharge are not set lower as a result of negative indexation.

*Increase in childcare compensation when legal minimum wages increase*

As the childcare compensation and the limited parental contribution are the only sources of income for childcare organisations, the development of the childcare compensation shall have to take the development of the statutory minimum wages into account when determining the development of the childcare compensation. It cannot be the case that working in childcare does not pay, in the sense that pedagogical professionals receive a salary equal to or just above the legal minimum wages. Currently, childcare organisations are already struggling to find pedagogical professionals. Pedagogical professionals choose other sectors - including education - because it pays better and/or because the terms and conditions of employment are better. To realise the task childcare organisations face, suitable professionals are a crucial prerequisite. Therefore, the level of the childcare compensation should be set in such a way that childcare organisations can meet their obligations at least for employees with a salary at or near the minimum wages.

The gross minimum wages for the Public Entities are regulated by the Minimum Wages BES Act. Indexation and other changes to the statutory gross minimum hourly wages are determined at ministerial level (see, in particular, Section 13 Subsections 1 and 3 of the Minimum Wages BES Act). In order for the childcare compensation to grow in time, it is necessary that increases in the relevant amounts can take place at ministerial level, just as with the statutory gross minimum hourly wages. In doing so, this Order deviates from Recommendation 2.32 of the Recommendations for Regulations, which takes as its starting point that a higher regulation is not amended by a lower regulation. However, childcare organisations are largely dependent on funding from the Central Government. It is therefore important that their compensation grows with the statutory gross minimum hourly wages as soon as possible, so that they can continue to meet their obligations under the Minimum Wages BES Act.

In order to tie in as much as possible with the aforementioned Recommendation, the amendment related to the increase of the gross minimum hourly wages has been designed as a fixed methodology as much as possible. After all, adjusting amounts according to a fixed methodology is possible by means of lower regulations pursuant to the Recommendation. This involves two separate amendments. The first amendment follows the percentage increase of the gross minimum hourly wages, on the understanding that it shall only be applied to the part of the childcare compensation corresponding to the wage costs of childcare employees who earn less or equal to the increased gross minimum hourly wages. In this context, this increase concerns a mandatory authority: the Minister cannot waive it. Because it is unclear by how much the statutory minimum wages shall increase and because limited information is available on which part of the employees earn less than or around the statutory minimum wages, a fixed methodology is not feasible.

The second amendment concerns a discretionary additional increase for a specifically defined situation. This situation only exists if the aforementioned number of childcare employees earning less than or around the increased gross minimum hourly wages is so substantial that there is special cause to proceed with an additional increase in the childcare compensation. That special cause must be related to the organisation of the pay structures in childcare. This is the case if the increase in the gross minimum hourly wages is so substantial that it affects the entire pay structure in childcare. Again - for the same reasons as mentioned earlier - this does not fit into a fixed methodology. The Minister therefore has the authority to make independent choices in this regard.

In practice, this means that the Minister announces the new amounts for the childcare compensation as a result of an increase in the gross minimum hourly wages in the Government Gazette, in the same manner as in the event of indexation. In other cases that give rise to adjustment of the amounts in this Order, it shall be necessary to proceed with regular amendment of the Order, namely at the level of an order in council. This shall be possible, for instance, on the basis of the periodic cost price survey.

The baby surcharge shall not be increased because of an increase in the gross minimum hourly wages. This is because the surcharge is a supplement to the childcare compensation for childcare organisations that care for babies up to the age of 1. It is not part of the childcare compensation.

#### *Application for advance*

The childcare organisation is given the opportunity to apply for an advance on the childcare compensation for the quarter in which the children are cared for so that the organisation has sufficient funds to care for the children in the quarter in question. This procedure is in line with the temporary subsidy scheme.

To prevent childcare organisations from ending up in financial trouble by applying for an excessive advance, two conditions are applicable to the provision of an advance: 1) per application, the advance does not cover more than one quarter, and 2) the advance is only provided for the number of half-day sessions for which childcare agreements have been concluded. The funds for the advance are therefore intended to meet obligations in the quarter.

#### *Second advance*

The Order also offers the possibility to apply for an additional advance (or: increase the advance provided). Based on Section 3.7 Subsection 2 of the Childcare BES Act, rules are set for this. An additional advance is only provided if the number of children to be cared for is substantially higher than the application submitted for the original advance. The childcare organisation shall then have to make it plausible to the Minister (in practice: the implementing organisation, the SZW Unit of RCN), on the basis of the childcare agreements concluded with parents, that there is an unexpected extra influx of children to be taken care of.

#### *Determination childcare compensation based on the reference date*

The childcare organisation also submits an application to determine the childcare compensation for the past quarter. In this application, the childcare organisation indicates the realisation on the reference date: which children made how much use of

which type of care on the reference date. The reference date is set on the last day of the current quarter. By setting the reference date on the last day of the quarter, the actual realisation is taken into account when determining the childcare compensation. Possible settlements take place one quarter later. This is because the implementing agency has indicated it needs sufficient time to determine the childcare compensation lawfully. To illustrate: the childcare compensation for the first quarter is determined in the third quarter. This working method means that the childcare organisation has a slightly longer period of uncertainty about a possible settlement. Moreover, experience with the temporary subsidy scheme shows that in most cases there is a subsequent payment. Childcare organisations generally apply for a lower advance payment to avoid having to reclaim the childcare compensation.

The implementing agency shall discuss the further course of the process and the method of providing information with the childcare organisations and design the process accordingly.

#### **4.4 Maximum number of subsidised care places**

High-quality childcare benefits from healthy operations. For example, when it comes to investing in safe and healthy housing. For that reason, it is desirable that childcare organisations and host parents are given certainty to make investments and, in doing so, do not run the risk of running into financial problems due to a number of children transferring to a new market entrant. In Section 3.4 Subsection 2 of the Childcare BES Act, the government has therefore been given an instrument to protect the continuity of childcare centres on the island, by order in council, on the advice of the Executive Council of the Public Entity. Section 3.4 Subsection 3 of the Childcare BES Act states that further rules can be set by an order in council with regard to capping.

This Order contains the elements that must be addressed in the decision-making process of the government to arrive at an order in council on capping. Most of these elements should also be addressed in the opinion of the Executive Council to the government, in addition to a description and consideration of the reasons for and against capping. If a Public Entity is of the opinion that a limitation of the number of childcare places to be financed is desirable, the Public Entity shall provide a substantiated opinion to the Minister to proceed with capping the number of childcare places to be financed on the island. In the consideration of the Public Entity of this opinion, attention shall need to be paid to the reactions of parents, e.g. concerning the possible limitation of their options, also in relation to the quality of the type of childcare offered.

In addition, the opinion to set a maximum should in any case provide insight into demographic developments and the supply of childcare on the island in quantitative and qualitative terms. The Public Entity shall consult with childcare organisations and parents on the island before issuing this opinion to the government.

From that consultation, it shall, for instance, become clear whether the childcare organisations and parents endorse the importance of a maximum number of funded places. It is recommended that the substantiation of the opinion includes an (anonymous) report of the discussion with the childcare organisations and parents.

The Public Entity shall also have to advise on the number of licences and childcare places included in the same. In doing so, it is recommended to substantiate this based on business considerations (e.g. occupancy rate, operating result), but also in consideration of the choices parents may want to have. Finally, it should be noted that this procedure takes time.

#### *Childcare Compensation Capping Order*

If the government grants the request, an order in council shall establish the capping of the childcare compensation on the relevant island including, if necessary, the further rules for granting the childcare compensation.

### **4.5 Structural childcare**

With a low parental contribution, the financial incentive for some parents to agree on use in accordance with the actual attendance of a child at childcare may be limited. There is therefore a risk that childcare organisations and parents shall agree on more childcare than the actual need of the parent in question and that, in this way, places may not be occupied all the time or even for longer periods of time.

Section 3.2 Subsection 1(g) of the Childcare BES Act states that childcare compensation can only be provided if there is question of structural childcare. If this condition is no longer met, the Minister can discontinue the childcare compensation on the basis of Section 3.3 Subsection 3(a) of the Act. Pursuant to Section 3.2 Subsection 5 of the Act, further rules can be established regarding the subjects referred to in Subsection 1. Against this background, this Order sets further rules to determine whether there is question of structural childcare.

The basis for the determination as to whether there is question of structural childcare is the agreement under private law of parent and childcare organisation. This states on which day(s) (daily sessions) of the week the child shall attend childcare and childcare shall be offered.

The starting point is that parents who pay for childcare for their children also make use of the care. Incidental absence, late drop-off or early pick-up, weekly half-day participation in an out-of-school activity, illness of limited duration or absence during regular school holidays are therefore no reason for the implementing agency to stop the childcare compensation. This also applies if the child is exempt from compulsory education. It becomes different if childcare is not used for a longer period of time (3 months) outside regular school holidays. As a general rule, there is question of structural childcare if more than 80% of the number of half-day sessions stipulated in the childcare agreement are attended (counted outside regular holidays). Systematic absence (> 50%) on the day itself can also be reason to conclude that there is no structural childcare.

If the final conclusion is that the childcare compensation has been used without structural childcare, the provider can stop all or part of the childcare compensation and possibly reclaim it, if the conditions for reclaiming, set out in the Act, are met.

### **4.6 Flexible care and funding plus care**

For flexible childcare, the Cabinet does not currently have sufficient resources available to fund this structurally. Also, the Executive Councils of the islands have indicated that they do not want to prioritise this in the near future. The main priority for the islands is to improve the quality of childcare.

For plus care, a study has been conducted on the cost of plus care in the Caribbean Netherlands. The study was delivered in June 2024. The study shows that the amount available at the time of the parliamentary debate of the Childcare BES Act for plus care is insufficient to implement the recommendations from the study. However, it is important that plus care is available on the islands for children with an additional support need and that its quality is of sufficient level. That is why the quality requirements for plus care come into force, as does the obligation to hold a licence to offer plus care. To offer quality plus care, it is important that childcare organisations have sufficient resources. Discussions shall be held with the Public Entities on the funding of plus care.

## **5. Detailed rules data and information**

The Childcare BES Act contains bases for data provision between different parties. This involves the following data flows:

1. An operator of a childcare centre or host parent to Our Minister<sup>41</sup>, for the purpose of determining or paying the childcare compensation or supplementary compensation for plus care<sup>42</sup>;
2. A parent to Our Minister, for the purpose of determining or amending the childcare compensation or the supplementary compensation for plus care<sup>43</sup>;
3. The Executive Council of the Public Entity, the supervisors<sup>44</sup> or the officials<sup>45</sup> charged with the detection of criminal offences pursuant to Section 184 of the Code of Criminal Procedure BES (hereinafter referred to as: investigating officers) to Our Minister, for the purpose of deciding on the childcare compensation or supplementary compensation for plus care<sup>46</sup>;
4. Our Minister and the Executive Council of the Public Entity to supervisors or investigating officers, for the purpose of supervision and detection of criminal offences<sup>47</sup>;
5. Our Minister and supervisors or investigating officers to the Executive Councils of the Public Entities, for the purpose of carrying out the duties the Executive

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<sup>41</sup> As described in the Explanatory Memorandum to the Childcare BES Act, where the Act refers to 'Our Minister' on this point, it means the implementing organisation, which takes on the implementation of childcare funding in the Caribbean Netherlands on behalf of the Minister.

<sup>42</sup> Childcare BES Act, Section 4.2.

<sup>43</sup> Childcare BES Act, Section 4.3.

<sup>44</sup> Pursuant to Section 5.1 of the Childcare BES Act, the Minister shall appoint supervisors of quality and legality. As described in the Explanatory Memorandum to the Act, the intention is to appoint the Inspectorate of Education and local inspectors employed by the public entity as supervisors of quality, and the SZW Unit of RCN as supervisor of legality.

<sup>45</sup> These include the police, the criminal investigation service, and the Royal Netherlands Marechaussee (Koninklijke marechaussee).

<sup>46</sup> Childcare BES Act, Section 4.4.

<sup>47</sup> Childcare BES Act, Section 4.5.

Council of the Public Entity has under the Childcare BES Act, including suspending and revoking an operating licence<sup>48</sup>;

6. Daycare to primary school, for good progression to primary school<sup>49</sup>;
7. The provider of pedagogical advice or support, the expertise centre education care, and the operator of a childcare centre or host parent to each other, for the purpose of providing appropriate support to a child with an additional support need<sup>50</sup>;
8. A parent to a childcare centre or host parent, for the purposes of the childcare agreement<sup>51</sup>;
9. A childcare centre or host parent to the Executive Council of the Public Entity, for the purpose of applying for an operating licence<sup>52</sup>.

The Childcare BES Act regulates for data streams 1-7 that further rules are set by order in council, which may cover<sup>53</sup>:

- a) the data to be processed;
- b) the cases in which data are processed in any case;
- c) the method of processing the data and information;
- d) electronic data traffic and the electronic infrastructure to be used in the process;
- e) data processing requirements.

This chapter describes the further rules regarding data provision included in this Order, as an elaboration of the rules and bases that apply on the basis of the Childcare BES Act and supplementary to the rules that are already applicable on the basis of the Personal Data Protection BES Act (Wbp BES) and - where applicable - the General Data Protection Regulation (GDPR). Paragraph 5.1 describes the further rules regarding the method of data provision and the (electronic) infrastructure. Paragraph 5.2 explains the restrictive rules regarding the provision of data from the childcare centre to the primary school for the purpose of proper progression to primary education. Paragraph 5.3 explains the restrictive rules when providing data between the provider of pedagogical advice or support, the EOZ, and the childcare centre or host parent for the purpose of providing appropriate support to a child with additional support needs. Paragraph 5.4 discusses the restrictive rules for the provision of data from the European Netherlands to the Caribbean Netherlands. Restrictive rules are set for these data flows because the need for additional safeguards is considered greatest for these data flows. After all, these may involve data on particularities in the development of a child or health data. For the other data flows, the Childcare BES Act, the Personal Data Protection BES Act, and the GDPR provide sufficient safeguards. However, a data protection impact assessment has been drawn up, providing insight into which data may be involved in which situation for each data flow.

## **5.1 Rules on the manner of data supply and (electronic) infrastructure**

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<sup>48</sup> Childcare BES Act, Section 4.6.

<sup>49</sup> Childcare BES Act, Section 2.15.

<sup>50</sup> Childcare BES Act, Section 2.19.

<sup>51</sup> Childcare BES Act, Section 2.2.

<sup>52</sup> Childcare BES Act, Section 2.1.

<sup>53</sup> Childcare BES Act, Section 4.7.



This Order regulates that parties should take appropriate technical and organisational measures to protect these personal data. Parties may consider entering into processing agreements that specify what data are shared with whom and when.

It was decided not to specify the measures further, as sufficient safeguards exist at the legislative level. For example, Section 13 of the Personal Data Protection BES Act already requires the data controller to implement appropriate technical and organisational measures to secure personal data against loss or any form of unlawful processing. With the addition of the aforementioned standard on appropriate technical and organisational measures in the Order, this existing responsibility of the data controller is extended to all parties handling mandatory provision of personal data under the Childcare BES Act. There is thus a great responsibility on parties to handle data provision prudently. For the supervisors, the implementing organisation and the investigating officers, from the other tasks they have, they have already taken measures within the framework of protecting personal data. They can relatively easily use these measures for the tasks arising from the Childcare BES Act as well. For many childcare centres and host parents, however, taking measures to protect personal data is a major concern. Therefore, the BES(t) 4 kids programme shall examine what support should be offered to childcare centres and host parents in the run-up to the coming into force of the Act and this Order. It is important that attention to the protection of personal data becomes a permanent part of the support structure for the childcare centres and host parents. The Public Entities are responsible for that support structure pursuant to Section 2.3 Subsection 4 of the Childcare BES Act.

## **5.2 Restrictive rules on data provision from daycare to primary school**

For the purpose of a good progression, it is necessary that the primary school receives information from the childcare organisation. Therefore, the Childcare BES Act allows the childcare centre or a host parent where daycare is provided to provide information on the development process of an individual child to the primary school where the child concerned shall attend. This does require parental consent. Without parental consent, these data cannot be shared with the childcare organisation. As an additional safeguard, this Order, based on Section 2.15 Subsection 4(a), limits the types of data that can be shared.

The present Order regulates that it may only concern the following data: development data in the areas of language skills, numerical skills, motor skills, and socio-emotional skills. These are the skills that the daycare additionally stimulates through the pre-school education programme. Moreover, in the context of responsible childcare, the daycare should also challenge the development of a child in these areas through play.

Reason for setting restrictive rules on this because it is considered undesirable that a childcare centre or host parent and the school would potentially share other data, such as data on the home situation or data on the health of a child. The Cabinet believes that it is up to parents to provide such data to third parties - such as a school - and therefore not to the childcare centre or host parent. Moreover, the Cabinet believes that a clear demarcation is needed of data that can be shared for the purpose of promoting a good progression of children to primary education. After all, these are young children.



### **5.3 No additional restrictive rules on data supply between the provider of pedagogical advice and support, the expertise centre education care, and the childcare centre or host parent**

For the purpose of providing the right support to a child with an additional support need, the Childcare BES Act enables, among other things, the provision of data between the provider of pedagogical advice and support, the expertise centre education care and the operator of a childcare centre or host parent.<sup>54</sup> These parties all play a role in the support structure in childcare for children with additional support needs; for an explanation of the support structure, see paragraph 5.3.2 of the Explanatory Memorandum to the Act. The parties can only provide data if the parents consent.

Section 2.19 Subsection 5 of the Childcare BES Act includes the possibility of making explicit what data are involved in an order in council. The present Order regulates that it can only concern data, including data concerning the health of a child, that are necessary for providing safe, responsible childcare and the right support to a child with an additional support need. As it always concerns a support need of an individual child and there can be many different situations in this, not all of which can be visualised in advance, it is not possible to further specify what data may be involved.

### **5.4 Restrictive rules on data supply European Netherlands to Caribbean Netherlands**

Based on Section 5.1 of the Childcare BES Act, supervisors of quality and legality shall be appointed. The Explanatory Memorandum to the Act describes the intention to appoint the Inspectorate as supervisor of quality. The Inspectorate is housed in the European Netherlands. As outlined in the introduction to this chapter, the Act provides bases for the Inspectorate to share data with certain other parties. These parties are mostly located in the Caribbean Netherlands. This means that two regimes with regard to data sharing are then applicable: for the Inspectorate, the GDPR applies, and for the parties located in the Caribbean Netherlands, the Personal Data Protection BES Act applies. Because this results in a complex situation and the GDPR requires additional appropriate safeguards when transferring personal data to third countries (from the EU to outside the EU), the government considers it relevant to further regulate in this Order which situations it regards and which data may be involved. By doing so, the government introduces an additional safeguard: only these data can be provided and only in the defined situations of transfer to third countries.

It may involve the following transfers: 1) the Inspectorate to local inspectors, 2) the Inspectorate to the Public Entity, and 3) the Inspectorate to the supervisor of legality (SZW Unit of RCN). The following paragraphs explain these transfers in more detail, and describe for each transfer what data may be involved.

#### **1) The Inspectorate to the local inspector**

As described in the Explanatory Memorandum to the Childcare BES Act, the intention is to appoint local inspectors, being officials employed by the Public Entity, in addition to the Inspectorate. The intention here is for the Inspectorate to have final responsibility for quality supervision and for the local inspectors to perform some supervisory tasks.

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<sup>54</sup> Childcare Act BES, Section 2.19.

The quality supervisors shall contribute one report per location. This requires the ability to share data with each other.

Since local inspectors are colleagues of the inspectors of the Inspectorate, it is important that they have the same data and that there are no restrictions on this, within the limits of the tasks for which they process data. That would unnecessarily complicate the work for both parties. What is important here is that the Inspectorate tests what transfer is necessary within the framework of its existing safeguards around processing personal data. Therefore, the Cabinet decided not to impose additional requirements on the types of data the Inspectorate can share with local inspectors.

## 2) The Inspectorate to the Public Entity

Section 2.1 Subsection 1(a) of the Childcare BES Act states that a childcare centre or a host parent may only offer childcare if it has an operating licence. The childcare centre or the host parent can apply for this with the Public Entity. To assess an application for an operating licence, the Public Entity must request an opinion from the Inspectorate. Its opinion considers as to whether the operation shall reasonably take place in accordance with the applicable quality requirements. It may also advise on the revocation or suspension of a licence. It may also involve information in the context of the supervision of the tasks of the EOZ.

In this context, the Inspectorate may provide the Public Entity with the following personal data. Firstly, the name and contact details (age, date of birth, gender, nationality, education) of the applicant, in order to establish what type of application it concerns. Secondly, the Certificate of Good Conduct (VOG) of the applicant, and if possible the Certificate of Good Conduct (VOG) of other persons who are already part of the organisation (to be formed). Thirdly, if the organisation already employs pedagogical professionals, it may concern educational data of pedagogical professionals. Fourthly, it may involve data relating to the health of children.

## 3) The Inspectorate to the supervisor of legality

The Explanatory Memorandum to the Childcare BES Act describes the intention to appoint the SZW Unit of RCN as supervisor of legality. In that light, it is important that the Inspectorate can share personal data with the supervisor of legality, the SZW Unit of RCN, to the extent that such data are necessary for the supervision of funding and data provision (Sections 3 and 4 of the Act). This may include names, administration or ID number, contact details, age, date of birth, gender and/or nationality of the operator of a childcare centre or host parent.

## **6. Other further rules**

On a number of other subjects, the Childcare BES Act still contains the basis for the establishment of further rules, which was relied on in this Order. It concerns the designation of circumstances under which an exception can be made to the acceptance obligation and further rules on the expert in connection with suspicions of criminal offences. These topics are explained in paragraphs 6.1 and 6.2, respectively.

### **6.1 Exceptions to the acceptance obligation**

Section 2.2 Subsection 2 of the Childcare BES Act includes an acceptance obligation for childcare: in principle, a childcare organisation may not refuse a child that is registered. However, the Act does offer the possibility to designate circumstances by order in council in which it is nevertheless permitted to refuse a child. This Order designates the following four circumstances.

The first circumstance is when there is no place at the location. There is no place at a location if the maximum number of children has been reached based on the operating licence issued, or based on applicable quality requirements, such as maximum group size requirements.

The second circumstance is if the appropriate support cannot be provided to the child at the location, preventing the provision of responsible childcare to the child or to the other children within the childcare centre or host parent care facility.

The third circumstance for being allowed to refuse a child is if a childcare centre or host parent does not apply for the childcare compensation for the child and neither receives childcare compensation for other children within the childcare centre or host parent care facility. The acceptance obligation therefore only applies to organisations relying on the childcare compensation from the Central Government. Childcare on the islands is run privately, and without public funding a childcare centre or host parent can further set its own rules in terms of the acceptance policy. Incidentally, other regulations with regard to, for example, equal treatment are, obviously, applicable in full.

The fourth circumstance is if the childcare centre or host parent reasonably expects that the parent shall not pay the parental contribution. This expectation can only constitute a circumstance for an exception to the acceptance obligation if, no later than six months before the intended start date of the new childcare agreement, the childcare compensation has been terminated because the parental contribution has not been paid for three months (including by the Public Entity). This must involve termination of the childcare compensation under a previous childcare agreement between the same childcare centre or host parent and the parent.

### **6.2 Further rules expert in connection with suspected criminal offences**

Pursuant to Section 2.10a Subsection 1 of the Childcare BES Act, the Minister shall appoint an expert to whom childcare centres, pedagogical professionals, host parents, and persons aged 18 and over who are structurally present at a location where childcare is provided as a host parent can report if they have suspicions of criminal offences in childcare, such as maltreatment or abuse. For the safety of children in childcare, it is very important to act quickly in such situations, and the designated expert can advise

and guide the person filing the report in this. More information can be found in paragraph 5.2 of the Explanatory Memorandum to the Act.

This Order contains the following detailed rules regarding the expert.

First of all, the expert should have an independent position in respect of the person filing the report. This means that the expert must have no personal or business relationship with the person filing the report, the alleged perpetrator and/or the alleged victim. Nor may the expert have any interest or role in the childcare organisation concerned. Given the scale of the islands, it cannot be excluded that the expert knows a person involved. In that case, the expert should consider whether their neutrality or independence is at stake. If that is the case, the expert should refer the person filing the report to one of the experts on the other islands.

Secondly, the expert should have demonstrable knowledge and experience of signals that (may) point to child abuse or child sex offences. The expert knows (recognises) the signals and mechanisms in child abuse or vice crimes, knows how to deal with all involved, and knows how to act to bring the child quickly and permanently to safety.

Thirdly, the expert should be experienced in fulfilling a role of trust. The expert must create an environment in which the person filing the report has the confidence to entrust the expert with the - often very sensitive - information.

## **7. Consequences (other than financial) and regulatory burden**

In the Explanatory Memorandum to the Act, the consequences and regulatory burden are described in detail in chapter 7. This includes the intended further regulations by order in council. This chapter therefore only deals with elements not yet covered in the Explanatory Memorandum to the Act. Paragraph 7.1 describes the additional consequences, and paragraph 7.2 the additional regulatory burden. Paragraph 7.3 discusses the objection and appeal procedure.

### **7.1 Impact**

The further rules in this Order in Council have consequences for various parties: operators of childcare centres, host parents, Public Entities, parents, and the SZW unit of RCN. The consequences are described for each party.

#### *Operators of childcare centre*

For the operators of childcare centres, in terms of quality requirements, most of the consequences have already been described in the Explanatory Memorandum to the Childcare BES Act. Important additions are the rules in the framework of the pre-school education programme and the rules in the framework of quality assurance. In the context of the pre-school education programme, childcare centres have been supported in the implementation of a programme in recent years from the BES(t) 4 kids programme. Within the framework of quality assurance, childcare centres are required, among other things, to describe the quality policy in the pedagogical policy plan. This is something that many childcare centres have not done at the moment and which is expected to require support. The BES(t) 4 kids programme shall address this too.

In terms of funding, this Order includes rules on the conditions for an (additional) advance payment. Furthermore, the Order regulates the amount of the childcare compensation, as well as the parental contribution. It also regulates the modification of the childcare compensation and the parental contribution. Finally, the Order indicates what is understood as structural childcare.

#### *Host parents*

For host parents, in terms of quality requirements, the consequences have already been described in the Explanatory Memorandum to the Childcare BES Act.

#### *Public Entity*

Based on the Childcare BES Act, the Executive Council of the public entity shall be given various tasks. The consequences of this for the Public Entity have already been described in the Explanatory Memorandum to the Act. One of the tasks is specified in this Order, namely the tasks of pedagogical support and advice. The tasks were given substance in association with the Public Entities, and the relevant establishment gives direction and clarity in what is expected of them. In addition, the Public Entity is given the opportunity to advise the Minister of SZW to limit the maximum number of half-day sessions. This Order regulates what the opinion must comply with and what criteria the Minister shall take into account when considering a maximum.

#### *Parents*

The Order regulates the level of parental contribution for the period 2026 to 2030.

#### *SZW Unit of RCN*

The SZW Unit of RCN shall be responsible for funding childcare organisations. That is, the RCN Unit shall pay the childcare compensation to childcare organisations.

### **7.2 Regulatory burden**

The tables below show the regulatory burden for childcare organisations with regard to the quality requirements and the funding system, respectively. These tables are in addition to those included in paragraph 7.2 of the Explanatory Memorandum to the Act.

***Table Regulatory burden of childcare organisations regarding quality requirements on an annual basis***

<b>Obligation</b>	<b>Comment</b>	<b>Size of target group</b>	<b>Time estimate</b>
<i>Periodic</i>			
Inclusion of team qualification in personnel planning	Not applicable to host parent care.	100%	6 hours
Establishment, implementation, and adjustment of quality policy	Not applicable to host parent care.	100%	24 hours
Recording of details during the day and reflecting periodically	Not applicable to host parent care.	100%	10 hours (depending on amount of particularities)

This Order includes a team qualification (see paragraph 3.3.1), instead of the intention as expressed in the Explanatory Memorandum to the Act to set level 3 of Senior Secondary Vocational Education (MBO-3) as the minimum educational requirement for all pedagogical professionals. The team qualification was included in the Order in Council in the context of feasibility, partly at the request of childcare organisations, but it does create a little more regulatory burden for them to implement this in the staff planning at location level. At the same time, it also removes pressure from them to only be able to hire pedagogical professionals at level 3 of Senior Secondary Vocational Education (MBO-3) whilst they are scarce on the islands.

The obligation to prepare quality policies and to record particularities during the day both stem from quality assurance and quality culture. This had not yet been operationalised in the Act.

***Table Regulatory burden of childcare organisations regarding funding system***

<b>Obligation</b>	<b>Comment</b>	<b>Size of target group</b>	<b>Time estimate</b>
Application for an advance payment	All childcare organisations and host parents can apply for quarterly advances for childcare compensation.	100%	4 hours for each request

Application for an additional advance	A childcare organisation and/or host parent can apply for an additional supplementary advance if it appears that substantially more children are cared for than initially included in the initial advance payment.	Unknown	4 hours
Application to determine childcare compensation	All childcare organisations and host parents submit quarterly requests for the determination of the childcare compensation.	100%	6 hours per request
The childcare organisation / host parent charges monthly parental contribution	All parents (except those unable to pay) should pay the parental contribution	100%	1 hour per month

The Order provides that the childcare organisation and/or host parent can apply for an advance on the childcare compensation. The childcare organisation indicates in the application for which childcare compensation it is applying. Of importance here are the type of childcare, the age of the children, and whether the children are residents. The idea is to keep the application as simple as possible, so that the RCN Unit can quickly process the application and send the decision to the childcare organisation / host parent.

The childcare organisation has the option to apply for an additional advance payment. This can only be done if, based on new agreements, it appears that substantially more children shall use the care.

The childcare organisation / host parent submits an application to determine the childcare compensation. In it, the childcare organisation shall at least include how many children it cared for up to the reference date (= last day of the quarter). The exact data that a childcare organisation / host parent must submit shall be included in a ministerial decree. Based on these data, the RCN Unit shall determine the childcare compensation.

Furthermore, the amount of the parental contribution is included in the Order. The childcare organisation must charge the parental contribution.

### **7.3 Objection and appeal procedure**

Parents, childcare centres, host parents, and other concerned parties can object to the decisions of the Minister of SZW. This is subject to the procedures under the Administrative Law BES Act.

## **8. Implementation**

In the Explanatory Memorandum to the Childcare BES Act, the consequences for the organisations taking on the implementation of the Childcare BES Act have already been described.

This Order details the regulations and has already described in the previous chapters the consequences of the elaboration of the Act in this Order. In doing so, implementation has often already been considered.

### **8.1 Organisations involved in implementation**

Childcare organisations are the main organisations affected by the Act and other regulations. The BES(t) 4 kids programme enables the Public Entities to consult regularly with these organisations on the impact of proposals on implementation. The feedback on the proposals has been discussed in the programme and, where possible, this has resulted in adjustments to the rules.

Furthermore, the Public Entities (licensing, supporting organisations), the SZW Unit of RCN (funding childcare organisations and supervising legality), the Inspectorate of Education (supervising childcare quality), and the Expertise centres education care (EOZ) (tasks in supporting inclusive childcare) are closely involved in implementation. The following paragraphs reflect on the implementation by party. With regard to the EOZ, this draft Order contains no further rules, so no paragraph has been included on that.

The drafting of this Order took place in close cooperation with the Public Entities and implementing organisations in the BES(t) 4 kids context. This has often resulted in agreement on the method of implementation. Furthermore, there have been consultations on the islands to discuss the contours of the Order.

Through the so-called internet consultation or implementation tests, the childcare and other implementing organisations shall be given the opportunity to assess the consequences of the rules laid down in conjunction and give their reaction to them. The opinions from internet consultation and the implementation tests and the consequences the Cabinet draws from them for the structure of the regulations shall be included in the Explanatory Memorandum to this Order before it shall be presented to the Council of State.

### **8.2 Childcare organisations**

This Order concretises for childcare organisations the conditions and requirements they must meet. This relates to both quality and legality. The latter mainly involves organisations knowing what the rules imposed on funding entail and what they have to do. For example, the Act sets out the conditions for the qualification for the childcare compensation. This Order further describes the process: a childcare organisation submits an application for an advance payment and the implementing organisation assesses the application at the request of the childcare organisation. Chapter 4 describes this process in more detail. Childcare organisations are involved in the structure of the process. In addition, the Cabinet has expressed the desire to align the funding process as much as possible with what childcare organisations are familiar with under the temporary subsidy scheme. This is explained in more detail in chapter 4.



The implementing agency has indicated its intention to start its duties under the Childcare BES Act on 1 July 2025. That is, childcare organisations shall submit applications for advance childcare payments to the RCN Unit before 1 July 2025 so that childcare organisations shall receive their money in a timely fashion. To make this possible, we shall examine which statutory provisions can come into force earlier than 1 July 2025.

### **8.3 Public Entities**

The Public Entity has an essential role when it comes to admitting organisations intending to offer childcare on the island. Organisations that meet the criteria may qualify for an operating licence. As a rule, this is sufficient to also qualify for funding by the Central Government. The Public Entity has the option of advising the Minister to cap the number of childcare places to be funded on the island to limit the number of organisations so that investments made by existing organisations are not lost due to the entry of new providers into the system. The Public Entity shall need to make a timely request to this effect. This Order lays down further rules in terms of the content of this opinion.

An important task for the Public Entity is to support the childcare organisations to comply with all the rules and conditions imposed on them pursuant to the Childcare BES Act. The Public Entities shall be supported in this by BES(t) 4 kids until the end of the programme, scheduled for 2028. It is the responsibility of the Public Entity to implement this organisationally. This Order lays down further rules on this, specifically the pedagogical advice and support component.

### **8.4 SZW Unit of RCN**

As indicated earlier, from 1 July 2025, the SZW Unit of RCN shall carry out the statutory duties regarding funding. Furthermore, the SZW Unit of RCN shall be the supervisor of legality. The RCN Unit is currently setting up its processes to carry out these new tasks. For instance, discussions are taking place with UVB - as the implementing agency of the temporary subsidy scheme - so that they can learn from each other. It is also important here that there is a warm transfer from one implementing agency for the temporary subsidy scheme to the structural implementation under the Act. The childcare organisations should be burdened as little as possible with this transition. This is why the RCN Unit is trying to match the current working method as much as possible. After all, the childcare organisations are familiar with it.

Applications for childcare compensation shall - at least in the first few years - still be processed manually. This demands a lot from the RCN Unit, also because the desire is to pay the advance childcare compensation before the start of the quarter. This puts pressure on the SZW Unit of RCN; after all, applications have to be assessed in a short period of time (maximum three weeks) and, in case of a positive assessment, the advance payment made. After all, childcare organisations are largely dependent on the childcare compensation. The RCN Unit is looking into the possibility of developing an application so that applications can be processed faster. This process takes time, also because the RCN Unit wants to properly identify which data are necessary and desirable. The childcare organisations shall be involved because they shall be the users of this application. In the run-up to an application, the intention is to work with user-friendly formats to reduce the administrative burden for childcare organisations / host parents.

***This is a translation. The document "Concept regeling en nota van toelichting" (in Dutch) on the website <https://www.internetconsultatie.nl/nadereregelsomtrentdekwaliteitfinancieringengegevensverwerkingtenbehoevavankinderopvang/b1> is leading.***

Furthermore, the two supervisors are also discussing their roles and responsibilities with regard to supervisory duties. This involves the deployment of enforcement instruments. These discussions shall continue in the coming period.

The RCN Unit shall be asked for an implementation test.

## **9. Monitoring and enforcement**

Under Section 5.1 of the Act, the Minister is authorised to appoint supervisors of quality and legality. The Explanatory Memorandum indicates that the intention is to designate the Inspectorate of Education as ultimately responsible<sup>55</sup> supervisor of quality, and the SZW Unit of RCN as supervisor of legality. Both parties are involved in the drafting of this Order in Council. The following paragraphs explain what the further rules in this Order in Council mean for the supervision of quality and legality.

### **9.1 Monitoring quality**

Paragraph 9.1 of the Explanatory Memorandum to the Act describes the tasks and working method of the quality supervisor. Supervision shall be carried out on the basis of a supervision and assessment framework. This framework shall include all quality requirements in the Act, the present Order in Council, and the Island Ordinances. The detailed rules in this Order in Council should therefore also be incorporated in the framework.

In the Explanatory Memorandum to the legislative proposal, each basis for further rules on quality requirements had already described which rules were being considered. Parallel to the drafting of the Act and later of this Order in Council, the envisaged supervisor had already started working on the draft supervision and valuation framework. There was regular contact about the elaboration of the rules in relation to the framework.

A point of attention are the transitional arrangements included in this Order in Council with regard to training and housing requirements. In principle, the supervision and valuation framework is valid for four years. Given the transitional arrangements, it could be the case - depending on the entry into force date of the Act - that, as part of a transitional arrangement, a certain requirement is replaced by an alternative requirement during the term of the supervision and valuation framework.

### **9.2 Monitoring legality**

Pursuant to the Act, the SZW Unit of RCN is the supervisor of legality. The SZW Unit of RCN shall supervise the correct application of the regulations related to the provision of childcare compensation to the organisations and the collection of the parental contribution by the childcare centres and host parents.

The supervisor shall carry out random checks on the accuracy of the information relevant to the determination of the childcare compensation. The supervisor may also subject the records underlying this information to further investigation. It is envisaged that each childcare centre or host parent care facility shall be inspected on average once every three years. The size of the sample and frequency shall be adjusted based on the findings of the supervisor.

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<sup>55</sup> In addition to the Education Inspectorate, local supervisors shall be appointed who are employed by the Public Entity but perform supervisory duties under the responsibility of the Education Inspectorate.

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### **9.3 Enforcement**

For the enforcement of the quality requirements in this Order in Council, various enforcement instruments have been introduced in the Act. A description of the enforcement system can be found in paragraph 9.3 of the Explanatory Memorandum to the Act.

## **10. Finance and financial implications**

The further elaboration of the Childcare BES Act in this Order has financial implications for childcare organisations.

### **10.1 Estimated expenditure financial scheme**

Childcare organisations receive childcare compensation for taking care of children. As the parental contribution represents a limited part of the revenue of childcare organisations, organisations are largely dependent on the level of the childcare compensation. This also means that costs arising from legislation and regulations must be paid from it.

In 2023, the final phase of the cost survey was completed and Parliament was informed<sup>56</sup>. In April 2024, the Cabinet issued a policy response to the cost price survey and announced a number of additional measures<sup>57</sup>. Some of those measures are included and further explained in this draft Order. The policy response also indicated that in response to the cost price survey and the opinion contained therein, the Cabinet is making additional resources available to adjust the childcare compensation based on a number of policy choices made by the Cabinet. First and foremost, it concerns additional funds for the improvement of the terms and conditions of employment. This shall enable childcare organisations to attract pedagogical professionals who meet the qualification requirements as set out in this draft Order. Secondly, the Cabinet wants to give childcare organisations more financial room to invest in play materials and housing or to cope with any financial setbacks. And finally, the compensation shall also be increased to offer better nutrition, for instance.

With the increase in childcare compensation, the organisations shall receive more money to implement the measures included in this draft Order.

The manner in which the level of childcare compensation shall be adjusted annually (indexation and policy increase) is set out in this draft Order. No later than 2028, the cost price survey shall be updated. The amounts needed to implement the scheme shall be included in article 7 Childcare of the budget of the Minister of Social Affairs and Employment.

### **10.2 Implementation costs Public Entities**

The BES(t) 4 kids programme shall be continued up to and including 2028. The Explanatory Memorandum to the Childcare BES Act states that prior to the termination of the programme, it shall be determined in consultation with the Public Entities what the structural implementation costs of the Public Entities shall be and what contribution the Public Entities shall make to this. On this basis, the amount of the addition from the Central Government to the free allowance of the Public Entities shall be determined. In addition, up to and including 2028, an annual amount of €1.25 million has been made available to the Public Entities for the support structure.

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<sup>56</sup> Parliamentary Letter: Report Funding Childcare Caribbean Netherlands dated 18 October 2023 – Session Papers 31322 no. 514

<sup>57</sup> Collective Letter Childcare in the Caribbean Netherlands dated 4 April 2024 – Session Papers 31322 no. 527

*This is a translation. The document "Concept regeling en nota van toelichting" (in Dutch) on the website <https://www.internetconsultatie.nl/nadereregelsomtrentdekwaliteitfinancieringengegevensverwerkingtenbehoevavankinderopvang/b1> is leading.*

## **11. Evaluation**

Five years after the entry into force of the Childcare BES Act, the efficiency and effectiveness of the Act shall be examined. This Order is part of this evaluation. This evaluation shall make use of, among other things, the results of the monitoring and evaluation taking place within the BES(t) 4 kids programme. A report of this policy evaluation is sent to the States General.

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## **12. Advice and consultation**

PM complete after consultation.

### **13. Transitional law and entry into force**

In this chapter, paragraph 13.1 describes the intended entry into force of this Order. Paragraph 13.2 provides an overview of the transitional law in this Order.

#### **13.1 Intended entry into force**

Because the Childcare BES Act, the present Order, and the Island Childcare Ordinances of the Public Entities are complementary to each other and together with other further elaborations in lower regulations (ministerial decree and, where necessary, island decree) form the total of rules for childcare in the Caribbean Netherlands, it is necessary that the parts of the Act and the corresponding parts of the lower regulations come into force simultaneously. The entry into force of both the Act and this Order shall be regulated by royal decree, whereby the entry into force may be set differently for different sections or parts.

The intended entry into force date of most of this Order is 1 July 2025. This means, among other things, that by 1 July 2025, childcare organisations shall have to comply with, and be supervised on, all quality requirements in this Order. It should be noted here - as described in the Explanatory Memorandum to the Act - that it has been agreed with the Inspectorate that in the first few years the emphasis shall be placed on stimulating supervision, so that childcare organisations are given room to grow towards the required level of quality.

For the required attendance for half the week of a professional who has appropriate pedagogical training at level 4, the target effective date is 1 January 2030. See further paragraphs 3.3.1 and 13.2 in this regard.

Finally, it is planned not to bring into force some parts of the Act until a time to be determined. This includes the funding of flexible childcare and the funding of plus care. For flexible childcare, the available budget is insufficient. Moreover, the Executive Councils of the Public Entities have indicated to give priority to the improvement of the quality of childcare. For plus care, the available budget is insufficient to implement the research into the costs of plus care. For this reason, no rules on this have been included in this Order. See further paragraph 4.6 on this subject.

#### **13.2 Transitional law in this Order**

Parts of previous chapters have already indicated that transitional law applies. This regards the following sections:

- Team qualification: until 1 January 2030, level 2 is the basic training requirement for pedagogical professionals. From 1 January 2030, pedagogical employees who even then only have level 2 can be deployed as part of the team qualification. This team qualification shall then already apply to the deployment of trainee professionals and trainees. See further paragraph 3.3.1.
- Education requirement for plus care: until 1 January 2030, level 3 applies as the basic education requirement for host parents in plus care and at least one professional in a master group or basic group for plus care, if they have demonstrable additional training or specialisation appropriate to the additional support needs of the children. Level 4 shall apply from 1 January 2030.



- The requirement for a minimum m<sup>2</sup> of indoor space for out-of-school care: until 1 January 2030, 2.5 m<sup>2</sup> is the minimum requirement for indoor space. From 1 January 2030, 3 m<sup>2</sup> applies as the minimum requirement. See further paragraph 3.2.1.

The main reason for applying transitional law to these sections is the realisability and feasibility of the relevant regulations. Both the Council of State when advising on the law and the Inspectorate have drawn attention to this. For the above parts and the requirement of presence during half the week of a professional at level 4 that shall come into force later, it takes time to comply. Moreover, for the sake of clarity for childcare organisations, it was decided to use the same (intended) target date for the transitional law and the later entry into force, namely 1 January 2030.

## **Section by section**

An explanation of the sections is given below, to the extent that the sections are not self-explanatory or have been sufficiently explained in the general part of this Explanatory Memorandum.

### **Section 1.1**

Section 1.1 concerns the definitions. The terms 'basic group', 'master group', and 'master group room' are aligned with the terms in the Childcare Quality Decree.

The term experience certificate is important for the feasibility of training requirements. It concerns a certificate with which the professional or host parent can demonstrate that they have the necessary experience, knowledge, understanding, and skills belonging to the level of education prescribed in this Order. Pursuant to Section 2.7 Subsection 2, further rules on the experience certificate are set by ministerial decree.

Other terminology in the Order follows that of the Childcare BES Act.

### **Section 2.1**

Section 2.1 contains four exceptions to the statutory obligation for the childcare centre or host parent care facility to enter into a childcare agreement with the parent who requests this (duty of acceptance). This is an elaboration of the delegation basis in Section 2.2 Subsection 2 of the Act. This offers the possibility to designate by order in council circumstances under which an exception can be made to the acceptance obligation.

The four exceptions are incorporated in parts a to d. Part d concerns the circumstance that the childcare centre or host parent expects that the parent shall not pay the parental contribution. This must be a reasonable expectation. Also, under a previous childcare agreement between the same parties, the childcare compensation must have been discontinued due to non-payment by the parent. If this has happened no later than six months prior to the intended start date of the new childcare agreement, the childcare centre or host parent care facility can refuse to enter into the requested childcare agreement by invoking this exception.

For further explanatory notes, see paragraph 6.1 of the general part of the Explanatory Memorandum.

### **Section 2.2**

Section 2.2 contains an elaboration of the aspects of responsible childcare referred to in Section 2.3 Subsection 1 of the Act. This elaboration is based on the delegation basis in Section 2.3 Subsection 3 of the Act. The content of this elaboration is based on the elaboration of the aspects of responsible childcare in Sections 2 and 11 of the Childcare Quality Decree. It has been added that the play-learning environment is language-rich and characterised by positive and high-quality interactions with and between children (part e). Section 2.2 applies to both childcare centres and host parent care facilities. For a further explanation, please refer to paragraph 3.1 of the general part of the Explanatory Memorandum.

### **Section 2.3**

Section 2.3 contains further rules on the expert appointed by Our Minister pursuant to Section 2.10a Subsection 1 of the Act. Pursuant to Section 2.3, the expert must comply

with four requirements included in parts a to d. For a further explanation, please refer to paragraph 6.2 of the general part of the Explanatory Memorandum.

### **Sections 2.4, 2.5, and 2.6**

Sections 2.4, 2.5, and 2.6 contain further rules on the conditions for responsible childcare with regard to health and safety. They are based on the delegation bases in Section 2.4 Subsection 4(a) of the Act for childcare centres, and Section 2.6 Subsection 4(a) of the Act for host parent care facilities.

Section 2.4 requires the childcare centre or host parent care facility to establish a health and safety policy for each childcare centre or host parent care facility (Subsection 1). The childcare centre or host parent must also ensure that the health and safety policy is acted upon (Subsection 2). This is a further regulation in line with the obligation in Section 2.3 Subsection 2 of the Act, to ensure implementation of the health and safety policy, its written recording, evaluation and, if necessary, adjustment.

Sections 2.5 and 2.6 regulate which parts the health and safety policy must at least contain at a childcare centre (Section 2.5) or at a host parent care facility (Section 2.6). The text of these sections is largely derived from Section 4 Subsections 3 to 5 and Section 13 Subsections 3 and 4 of the Childcare Quality Decree.

For a further explanation, see paragraph 3.2 of the general part of the Explanatory Memorandum.

### **Section 2.7**

Section 2.7 provides bases for ministerial regulations to lay down further rules or designate evidence regarding training and experience requirements for professionals or host parents. This shall include, for example, requirements for experience certificates.

### **Sections 2.8 to 2.11**

Sections 2.8 to 2.11 contain further rules on education, training, and experience requirements to be met by professionals at childcare centres or host parent care facilities. They are based on the delegation bases in Section 2.4 Subsection 4(e) of the Act for professionals, and Section 2.6 Subsection 4(b) of the Act for host parents.

With regard to educational requirements, reference is always made to the Education and Vocational Education Act and the Education and Vocational Education BES Act. These regulate the types of vocational training.

Section 2.8 contains the minimum education and experience requirement for professionals. This is a professional training of the vocational education type (also known as level 3 of Senior Secondary Vocational Education, or MBO-3), included in Subsection 1. If a professional with an experience certificate demonstrates that they act at the level of a vocational education, Subsection 2 allows the professional to have basic vocational education (level 2 of Senior Secondary Vocational Education, or MBO-2). Equivalent to basic vocational training is level 2 of the Caribbean Vocational Qualification (hereinafter referred to as: CVQ) (Subsection 2(b)). The education and experience requirements in Section 2.8 are subject to transitional law pursuant to Section 5.1(a) until 31 December 2029. For a further explanation of this transitional law, please refer to the explanatory notes to that section.

Section 2.9 Subsection 1 regulates that for at least half of the week, each location of a childcare centre shall have a professional with middle management training (level 4 of

Senior Secondary Vocational Education, or MBO-4). Subsection 2 supplements Subsection 1 with further requirements for middle management training. This training must demonstrably focus on six subjects listed in parts a through f.

Section 2.10 contains the minimum education requirement for host parents. This is professional training of the basic vocational education type (level 2 of Senior Secondary Vocational Education, or MBO-2, or CVQ level 2).

Section 2.11 Subsection 1 regulates that at least one adult with a qualification to administer first aid to children is always present during childcare. This applies to both childcare centres and host parents. Further rules on this qualification can be set by ministerial decree (Subsection 2).

For a further explanation, see paragraph 3.3.1 of the general part of the Explanatory Memorandum, under "Education, training, and experience requirements for pedagogical professionals", for professionals, and paragraph 3.3.2, under "Education and training requirements", for host parents.

## **Section 2.12**

Section 2.12 regulates various points regarding the stability of childcare in a childcare centre. This concerns an elaboration of the delegation bases in Section 2.4 Subsection 4 (b) and (e) of the Act. The text of this section is largely derived from Sections 9 and 18 of the Childcare Quality Decree.

Subsections 1, 2, 5, 6, and 7 need no further explanation at this point.

Subsection 3 contains the basic standard for the size of the master group or basis group: it is tailored to the age of the children in it. It may consist of more children the older the children in it are. This basic standard always applies, regardless of whether the size of the group falls within the limits of the maximum size, included in Subsections 4 and 9. That maximum size follows for master groups from Appendix 1 to this Order, for basic groups from Appendix 2 and for combined groups from Appendix 3.

Subsection 8 contains rules on the stability of childcare during activities in which children leave the master group or basic group (part a) or the master group room (part b). This concerns activities of which the nature and organisation are described in the pedagogical and educational policy plan pursuant to Section 2.32 Subsection 2(b).

For a further explanation, please refer to paragraph 3.2.1 of the general part of the Explanatory Memorandum, under "Recognisability of rooms and persons: master groups, basic groups and mentors", "Maximum group size and the professional-child ratio", and "Combining master groups and basic groups".

## **Sections 2.13 and 2.14**

Section 2.13 sets rules regarding the number of professionals to be deployed in a childcare centre, including the professional-child ratio. This concerns an elaboration of the delegation bases in Section 2.4 Subsection 4(a), (c), and (d) of the Act. The text of this section is largely derived from Section 7 Subsections 1 to 7 and Section 16 Subsections 1 to 6 of the Childcare Quality Decree.

Subsection 1 contains the basic standard for the minimum number of professionals to be deployed: this is geared to the number of children present in the master group or basic group. The older the children are, the fewer professionals may be deployed. This basic standard always applies, regardless of whether the number of professionals deployed

falls within the limits of the professional-child ratio, included in Subsection 2. This professional-child ratio follows for master groups from Appendix 1 to this Order, for basic groups from Appendix 2, and for combined groups from Appendix 3.

Subsections 3 and 4 contain possibilities to deviate from the professional-child ratio from Subsection 2 during the so-called edges of the day. Based on Subsection 3, fewer professionals can be deployed for a maximum of three hours per day, if the conditions included in parts a through c are met. This applies to daycare and, on days off from primary school or during school holidays, also to out-of-school care (part d). For daycare, an additional condition, based on Subsection 6, is that the different commitment may differ on the days of the week, but not per week. Subsection 4 only applies to out-of-school care before and after daily school hours and during free afternoons of primary school. At these times, fewer professionals may be deployed for a maximum of half an hour per day, if at least half of the required professionals are deployed on the basis of the professional-child ratio (Subsection 2). If, whilst relying on Subsection 3 or 4, only one professional is at the childcare centre, another adult must be present in the childcare centre for support.

Subsection 5 regulates that the minimum number of professionals to be deployed at or from the childcare centre does not change if children leave the master or basic group for activities. This concerns activities of which the nature and organisation are described in the pedagogical and educational policy plan pursuant to Section 2.32 Subsection 2(b).

Under the first sentence of Subsection 7, an adult must be available, reachable, and nearby in the event of an emergency. This is mandatory when, in line with the professional-child ratio, only one professional is present at the childcare centre. The name and telephone number of this adult must be made known to those working at the childcare centre (second sentence).

Section 2.14 sets requirements for the records of the childcare centre. These must include attendance lists of children, with an indication of their arrival and departure times. In this way, the childcare centre must demonstrate that the professional-child ratio as referred to in Section 2.13 Subsection 2 (part a) and, if applicable, the rules regarding exceptions to it as referred to in Section 2.13 Subsections 3 and 4 (part b), have been complied with. The text of this section is largely derived from Sections 7a and 16a of the Childcare Quality Decree.

For a further explanation, please refer to paragraph 3.2.1 of the general part of the Explanatory Memorandum, under "Maximum group size and the professional-child ratio", "Combining master groups and basic groups", "Four-eyes principle", and "Support".

## **Section 2.15**

Section 2.15 contains rules regarding the use of trainee professionals and trainees at a childcare centre. In addition, Section 2.15 contains rules on the application of the team qualification. This concerns an elaboration of the delegation bases in Section 2.4 Subsection 4(b) and (c) of the Act. The text of this section is partly derived from Section 7 Subsection 8 and Section 16 Subsection 7 of the Childcare Quality Decree and Sections 9 and 9c of the Childcare Act Regulations.

Subsections 1 and 2 set conditions for the deployment of trainee professionals and trainees. Subsection 1(a) and (c) need no further explanation here. Part b regulates that when a trainee professional or trainee is deployed within the group concerned, at least one professional who meets the basic training requirement of Section 2.8, i.e. either

MBO-3 or MBO-2 or CVQ-2 with a level 3 experience certificate, must also be deployed. Subsection 2 regulates that within the location of the childcare centre at least two-thirds of the professionals to be deployed meet the aforementioned basic training requirement. No more than one third may consist of trainee professionals or trainees. Of importance in the application of this is that Section 2.8 is subject to transitional law pursuant to Section 5.1(a). For a further explanation of this transitional law, please refer to the explanatory note to that section.

Subsections 3 and 4 concern team qualification. Subsection 3 makes it possible, in deviation from Section 2.8, to deploy a professional who has an education below the basic training level of Section 2.8, i.e. professional training of the basic vocational education type: level 2 of Senior Secondary Vocational Education (MBO-2) (part a) or CVQ-2 (part b), without an experience certificate. Subsection 4 limits that deployment and sets conditions to this. In doing so, the deployment of this professional is equated as much as possible with the deployment of a trainee professional:

- part a regulates that when deploying a professional with MBO-2 or CVQ-2, the childcare centre shall take into account the experience and expertise that this professional has at that time;
- part b provides that the conditions referred to in Subsection 1(b) and (c) apply mutatis mutandis to the deployment of a professional with MBO-2 or CVQ-2; and
- part c regulates that for the purposes of applying the composition of the team within the location under Subsection 2, the professional with MBO-2 or CVQ-2 is considered a trainee professional.

For a further explanation, see paragraph 3.3.1 of the general part of the Explanatory Memorandum, under "Education, training and experience requirements for pedagogical professionals".

## **Section 2.16**

Section 2.16 deals with the mentor at a childcare centre. This concerns an elaboration of the delegation basis in Section 2.4 Subsection 4(e) of the Act. The text of this section is partly derived from Section 9 Subsection 11 and Section 18 Subsection 5 of the Childcare Quality Decree. For a further explanation, please refer to paragraph 3.2.1 of the general part of the Explanatory Memorandum, under "Mentor".

## **Section 2.17**

Section 2.17 regulates the maximum group size at a host parent care facility. This concerns an elaboration of the delegation basis in Section 2.6 Subsection 4(e) of the Act. The text of this section is partly derived from Section 13 of the Regulations on the Quality of Host Parent Agencies, Host Parents, and Host Parent Care Facilities. For a further explanation, see paragraph 3.2.2 of the general part of the Explanatory Memorandum, under "Group composition of host parents".

## **Section 2.18**

Section 2.18 regulates that support is available, accessible, and nearby at a host parent care facility in case of an emergency. This concerns the same rule as for childcare centres, when only one professional is present there Section 2.14 Subsection 7. It is an elaboration of the delegation basis in Section 2.6, Subsection 4(a) of the Act. For a further explanation, please refer to paragraph 3.2.2 of the general part of the Explanatory Memorandum, under "Support".

## **Section 2.19**

Section 2.19 lays down further rules regarding the activity programme at the childcare centre or host parent care facility. These are based on the delegation bases in Section 2.4 Subsection 4(k) of the Act for professionals, and Section 2.6 Subsection 4(d) of the Act for host parents. For a further explanation, please refer to paragraph 3.3.1 of the general part of the Explanatory Memorandum, under "Daily rhythm and varied activity programme", and paragraph 3.3.2 of the general part of the Explanatory Memorandum, under "Activity programme".

## **Section 2.20**

Section 2.20 regulates for which tasks and subjects related to pedagogical support and advice the Executive Council shall provide guidance and support to the childcare centre or host parent. This is based on the delegation bases in Section 2.3 Subsection 5 of the Act and, with regard to Subsection 2, Section 18.4.5 Subsection 1(b) of the Bonaire, St. Eustatius and Saba Public Entities Implementation Act.

Section 2.20 is not an exhaustive enumeration of the tasks or subjects for which the Executive Council provides guidance and support under Section 2.3 Subsection 4 of the Act. Section 2.20 deals only with pedagogical support and advice. It is expected that the Executive Council shall have these tasks performed by a provider.

Subsection 1 appoints three tasks, included in parts a to c. Subsection 2 adds that the Executive Council supports the cooperation between the provider of pedagogical support and advice, the first-line parenting support, and the youth health care provider. First-line parenting support is designated as the provider of prevention-oriented support for young people. For this, reference is made to Section 18.4.5 Subsection 1(b) of the Bonaire, St. Eustatius and Saba Public Entities Implementation Act. Pursuant to this, further rules may be laid down with regard to prevention-oriented support of young persons with problems growing up and of parents with upbringing problems. For the implementing agency of youth health care, reference is made to Section 5 Subsection 1 of the Public Health Act. This states that the Municipal Executive is responsible for the implementation of youth health care. For application in the Public Entities of Bonaire, St. Eustatius and Saba, "Municipal Executive" is read as the Executive Council (Section 68a(a) of the Public Health Act).

For a further explanation, see paragraph 3.5.2 of the general part of the Explanatory Memorandum.

## **Sections 2.21 to 2.24**

Sections 2.21 to 2.24 contain further rules on identifying particularities in the development of a child or additional support needs. These are based on the delegation bases in Section 2.4 Subsection 4(i) of the Act for childcare centres, and Section 2.6 Subsection 4(c) of the Act for host parents.

For a further explanation, see paragraphs 3.5 and 3.5.1 of the general part of the Explanatory Memorandum.

## **Sections 2.25 and 2.26**

Sections 2.25 and 2.26 deal with the licence for plus care referred to in Section 2.1 Subsection 1(b) of the Act. Section 2.25 regulates on the basis of the delegation basis in Section 2.1 Subsection 3 of the Act that this licence can be granted for three years. Section 2.26 regulates on the basis of the delegation basis in Section 5.11 Subsection 2

of the Act that this licence can be suspended or withdrawn if for one year no children with an additional support need have been taken care of in the plus care.

For a further explanation, see paragraph 3.5.3 of the general part of the Explanatory Memorandum, under "Plus care licence".

## **Section 2.27**

Section 2.27 sets minimum training and experience requirements for professionals and host parents in plus care. These are based on the delegation basis in Section 2.17(a) of the Act.

Subsection 1 regulates that during all half-day sessions in which plus care is provided, a professional who has completed middle management training (MBO-4) must be deployed in the master or basic group concerned. This rule could be met for part of the half-day sessions by deploying the professional referred to in Section 2.9 in the group concerned.

Pursuant to Subsection 2, a host parent in plus care must also have middle-level training.

Subsection 3 regulates that for the professional or host parent referred to in Subsection 1 or 2, vocational training (MBO-3) may be sufficient. In that case, they must demonstrate by means of an experience certificate that they are acting at the level of a middle management training.

For a further explanation, see paragraph 3.5.3 of the general part of the Explanatory Memorandum.

The training and experience requirements in Section 2.27 are subject to transitional law under Section 5.1(b) until 31 December 2029. For a more detailed explanation of this transitional law, please refer to the explanatory notes to that section.

## **Sections 2.28 and 2.29**

Sections 2.28 and 2.29 concern the adjusted professional-child ratio at childcare centres and group size at host parent care facilities, respectively, if plus care is offered there. The adjusted professional-child ratio (Section 2.28) only applies to an exclusive plus group, i.e. a group that only accommodates children with additional support needs. For mixed groups at childcare centres, the professional-child ratio referred to in Section 2.13 Subsection 2, applies in full.

These rules are based on the delegation basis in Section 2.17(c) and (d) of the Act.

For a further explanation, see paragraph 3.5.3 of the general part of the Explanatory Memorandum.

## **Section 2.30**

Section 2.30 sets requirements for the space where plus care is provided by a childcare centre or host parent and its furnishings. These are based on the delegation basis in Section 2.17(f) of the Act. For a further explanation, see paragraph 3.5.3 of the general part of the Explanatory Memorandum.

## **Sections 2.31 and 2.32**



Sections 2.31 and 2.32 contain further rules on the conditions for responsible childcare at childcare centres regarding pedagogical and educational policy. These are based on the delegation bases in Section 2.4 Subsection 4(f) and (g) of the Act.

Section 2.31 requires the operator of a childcare centre to have a pedagogical and educational policy plan for each childcare centre (Subsection 1). The operator of a childcare centre must also ensure that the pedagogical and educational policy plan is acted upon (Subsection 2). The childcare centre must also make the pedagogical and educational policy plan known to the parents in writing. This is a further regulation in line with the obligation in Section 2.3 Subsection 2 of the Act to ensure that the pedagogical policy is implemented, recorded in writing, evaluated and, if necessary, adjusted.

Section 2.32 regulates which components the health and safety policy must at least contain. The text of this section is largely derived from Section 3 Subsections 2 and 3 and Section 12 Subsections 2 and 3 of the Childcare Quality Decree. Subsection 1 concerns elements that must be specifically described in each pedagogical and educational policy plan. This only applies if applicable to the parts included in Subsection 2.

For a further explanation, see paragraph 3.3.1 of the general part of the Explanatory Memorandum, under "Pedagogical policy plan".

### **Section 2.33**

Section 2.33 contains further rules on the pre-school education programme to be used by the childcare centre in daycare. This obligation follows from Section 2.4 Subsection 3 of the Act. The further rules are based on the delegation basis in Section 2.4 Subsection 4(g). For a further explanation, please refer to paragraph 3.3.1 of the general part of the Explanatory Memorandum, under "Requirements pre-school education programme in daycare".

### **Sections 2.34 and 2.35**

Sections 2.34 and 2.35 contain further rules on the housing, room layout, and space available for children at a childcare centre. These are based on the delegation basis in Section 2.4 Subsection 4(h) and (i) of the Act.

The text of Section 2.34 is partly derived from Sections 10 and 19 of the Childcare Quality Decree. In addition, some requirements and Section 2.35 have been added to take the Caribbean context into account. Based on Section 2.35, a porch up to a maximum of 18 m<sup>2</sup> can be counted as an indoor play area (Subsection 1). To do so, the porch must then meet the requirements included in that subsection. A porch cannot be used as a separate master group room (Subsection 2). If the porch does not meet the requirements laid down in Subsection 1, it can be counted as an outdoor play area (Subsection 3). To do so, the porch must meet the requirements set by Section 2.34 Subsections 1, 3, and 8 for an outdoor play area.

The word porch has been chosen for Section 2.35, because this loan word of American-English origin is common in the Caribbean Netherlands and reflects the meaning more clearly than the synonym veranda, which is more common in the European Netherlands. In addition, the word porch appears in the Dutch Language Dictionary.

For a further explanation, see paragraph 3.2.1 of the general part of the Explanatory Memorandum, under "Available space".

### **Section 3.1**

Section 3.1 sets further rules on structural childcare, referred to in Section 3.2 Subsection 1(g) of the Act. These are based on the delegation basis in Section 3.2 Subsection 5 of the Act.

Subsection 1 regulates when there is question of structural childcare. This is determined based on the presence of the child at the childcare centre or the host parent care facility, per period of three months, compared to the number and duration of the half-day sessions agreed in the childcare agreement. Per period of three months, the child must be present during 80% of the number of half-day sessions agreed upon (part a). The child must also be present for 50% of the duration of the agreed half-day sessions (part b). This does not include any absence of the child during school holidays (Subsection 1, opening words).

If the conditions in Subsection 1 are not met, there is still question of structural childcare if this non-fulfilment is caused by a reason included in Subsection 2(a), (b) or (c). Firstly, this is the case if the child is ill for a short period of time (part a). There is no short-term illness if the child has been absent for more than two consecutive months (under 1°) or is present for less than 25% of the agreed number of half-day sessions for more than six months (under 2°). Secondly, this is the case if the child is not subject to compulsory education (part b). To this end, reference is made to the regulation of exemption from compulsory education of the persons responsible for the child, included in Section 6 and Subsection 4 of the Compulsory Education BES Act. Thirdly, this is the case if the child has been absent for a fixed out-of-school activity for a maximum of one half-day per week.

For a further explanation, see paragraph 4.5 of the general part of the Explanatory Memorandum.

### **Section 3.2**

Section 3.2 Subsection 1 regulates that the childcare compensation is provided quarterly upon application. This means that the childcare compensation is applied for and provided each quarter. It is not possible to apply for childcare compensation for longer periods. The provision of the childcare compensation and its conditions are regulated in Section 3.2 Subsection 1 of the Act. Further rules can be set on those topics on the basis of the delegation basis in Section 3.2 Subsection 5 of the Act.

Section 3.2 Subsection 2 regulates on the basis of the delegation basis in Section 3.3 Subsection 2 of the Act that the reference date is the last day of the quarter in which childcare starts. This means that no deviation from Section 3.3 Subsection 1 of the Act is possible: the childcare compensation is provided as from the day on which childcare starts. As a result of this reference date, it is irrelevant at what point in the quarter the childcare agreement was concluded. However, based on Section 3.2 Subsection 1(b) of the Act, it remains a requirement that a childcare agreement has been concluded before an entitlement to childcare compensation can exist.

For a further explanation, please refer to paragraph 4.3 of the general part of the Explanatory Memorandum, under "Determination childcare compensation based on the reference date".

### **Section 3.3**

Section 3.3 sets rules regarding the maximum of the total number of half-days per month for which childcare compensation can be provided, referred to in Section 3.3 Subsection 2 of the Act. These rules are based on the delegation basis in Subsection 3 of that section.

The capping, referred to in Section 3.3 Subsection 2 of the Act, may be done on the advice of the Executive Council, by order in council. Therefore, if capping is at issue, an order in council shall be prepared for that purpose. The rules in Section 3.3 of this Order concern the subjects that must be involved in that preparation (Subsection 1) and on which the Executive Council must advise (Subsection 2).

Subsection 1(g) concerns the manner in which the childcare compensation is provided during the capping period. Here, this provision may be linked to the operating licences already granted or yet to be granted and the childcare places included or to be included therein. In practice, the Executive Council includes in the operating licence the number of children the applicant may provide childcare for, i.e. the number of child places. This restriction on the way childcare compensation is provided during the capping is only applicable if it is necessary for the continuity of childcare.

For a further explanation, see paragraph 4.4 of the general part of the Explanatory Memorandum.

### **Section 3.4**

Section 3.4 sets further rules regarding the amount of the childcare compensation. These are based on the delegation basis in Section 3.5(a) of the Act.

The amounts in Subsections 1 and 2 of Section 3.4 concern the amount of the childcare compensation per half-day per child for the period stipulated therein. Subsection 1 refers to daycare; Subsection 2 refers to out-of-school care. The amounts differ per Public Entity. They are indicated in US dollars. Prior to the coming into force, the amounts in the Temporary Subsidy Scheme for the Funding of Childcare in the Caribbean Netherlands were also indicated in US dollars.

Subsection 3 concerns the baby surcharge. The childcare compensation is increased per half-day period per child under the age of one by the amount of the baby surcharge.

Subsections 4 and 5 regulate which amounts are provided and to which entitlement exists, when the amounts in Subsection 1, 2 or 3 are changed. An altered childcare compensation or baby surcharge is provided with effect from the quarter after the alteration has taken place (Subsection 4). Up to and including the quarter in which the change took place, the childcare centre or host parent retains the entitlement to childcare compensation or baby surcharge as it applied, no later than the day prior to that change (Subsection 5).

For a further explanation, see paragraph 4.2 of the general part of the Explanatory Memorandum.

### **Section 3.5**

Section 3.5 sets further rules regarding the indexation of the childcare compensation and baby surcharge and increase of the childcare compensation by ministerial decree. These further rules are based on the delegation bases in Section 3.5(a) and (b) of the Act.

Subsections 1 and 2 concern the indexation of the childcare compensation and baby surcharge. Pursuant to Subsection 1, these amounts are indexed annually with effect from 1 January. Pursuant to Subsection 2, negative indexation is excluded. If indexation on the basis of Subsection 1 would lead to a reduction of the childcare compensation or baby surcharge, those amounts shall remain unchanged (part a). The percentage reduction thereby omitted shall still be applied to the next indexation (part b). If this would again result in a reduction, the amounts shall again remain unchanged in accordance with the opening words and part a. The total percentage reduction thereby omitted shall then be applied again in the same way to subsequent indexations.

Subsections 3 and 4 concern increases in the childcare compensation by ministerial decree. This is the case when the gross minimum hourly wages, as referred to in Section 9 Subsection 1 of the Minimum Wages BES Act, is increased. Pursuant to Subsection 3(a), Our Minister adjusts the amounts of the childcare compensation, included in Section 3.4 Subsections 1 and 2, in accordance with the percentage increase in the gross minimum hourly wages. This concerns a mandatory authority: Our Minister is required to implement this increase, albeit on a date to be specified by Our Minister. This increase is not applied to the entire amount of the childcare compensation, but to part of that amount. This concerns the part of the childcare compensation that corresponds in its composition to the wage costs of childcare employees who earn less than the increased gross minimum hourly wages. Pursuant to Subsection 3(b), Our Minister can further increase the childcare compensation. This discretionary power can only be applied, if the number of employees earning less than the increased gross minimum hourly wages is so substantial that there is a special reason to do so, in connection with the organisation of the wage structures in childcare. Subsection 4 regulates the order of change of the childcare compensation amounts. If an increase pursuant to Subsection 3 occurs on 1 January, the indexation is applied first and then the increase.

Subsection 5(a) regulates that the amounts amended in accordance with the indexation or increase by ministerial decree shall replace the amounts included in Section 3.4. Part b regulates that these amended amounts are announced by or on behalf of Our Minister in the Government Gazette.

For a further explanation, see paragraph 4.3 of the general part of the Explanatory Memorandum.

### **Section 3.6**

Section 3.6 sets out rules on the provision of an advance on childcare compensation. These are based on the delegation basis in Section 3.7 Subsection 2 of the Act.

Subsection 1 lays down two conditions for the provision of an advance, set out in parts (a) and (b). Subsection 2 regulates the conditions under which the advance provided may be increased on application.

For a further explanation, see paragraph 4.3 of the general part of the Explanatory Memorandum, under "Application advance payment" and "Second advance payment".

### **Sections 3.7 and 3.8**

Sections 3.7 and 3.8 lay down rules on the amount and method of calculation of the parental contribution per half-day period. These are based on the delegation basis in Section 3.11 Subsection 2 of the Act.

Section 3.7 covers the period until 31 December 2026. Subsection 1 stipulates that the amount of the parental contribution in that period is based on the applicable amount referred to in Subsection 2. The amount in Subsection 2 concerns the monthly parental contribution for the maximum number of half-day sessions per month. That maximum follows from Section 3.4 Subsection 1 of the Act. Pursuant to Subsection 1, this amount is reduced for the calculation of the parental contribution, so that a parental contribution is arrived at for the number of childcare half-day sessions agreed between the parent and the childcare centre or host parent for the month concerned. To this end, the amount that follows from Subsection 2 is reduced proportionally by the difference between the maximum number of half-day sessions per month and the agreed number of half-day sessions.

Section 3.8 concerns the period from 1 January 2027. During this period, the parental contribution is calculated as a percentage of the then current amount of the childcare compensation referred to in Section 3.4 Subsection 1 (for daycare) or Subsection 2 (for out-of-school care). The amount of the parental contribution is 4% of the cost price. The childcare compensation is 96% of the cost price. This means that the parental contribution is 4.17% of the childcare compensation.

For a further explanation, see paragraph 4.1 of the general part of the Explanatory Memorandum.

#### **Section 4.1**

Section 4.1 contains further rules on the personal data to be processed in the context of progression to primary education, pursuant to Section 2.15 Subsection 1 of the Act. The further rules are based on the delegation basis in Section 2.15 Subsection 4(a) of the Act.

For a further explanation, see paragraph 5.2 of the general part of the Explanatory Memorandum.

#### **Section 4.2**

Section 4.2 contains further rules on the cases in which personal data are provided by officials, designated as supervisory or investigative officials, from the European Netherlands to the Caribbean Netherlands. These are based on Section 4.7(a) and (b) of the Act.

Subsection 1 contains four instances of the aforementioned data provision. Under part a, the designated officials may provide personal data amongst themselves. This applies to the extent that the said provision is necessary for the purposes included under 1° and 2°: monitoring quality, including the performance of duties by the EOZ, respectively a cooperation between the designated officials. Pursuant to part b, designated officials may provide personal data to the Executive Council. This applies to the extent that the said provision is necessary for the opinion provided by those officials in the context of the licensing referred to in Section 2.1 Subsection 5(a) of the Act, or the supervision of the task performance by the EOZ. Pursuant to part c, the designated officials may provide personal data to Our Minister or the implementing organisation that shall act on behalf of Our Minister, the SZW Unit of RCN. This applies insofar as such provision is necessary for the supervision of funding and data processing. Finally, pursuant to part d, the designated officials may provide personal data to the childcare centre or host parent, to the extent necessary for acts relating to the inspection report referred to in Section 5.4 of the Act.

Subsections 2 and 3 set out the types of personal data that may be involved for three of these cases. Subsection 2 deals with the cases referred to in Subsection 1(b) and (d). Subsection 3 deals with the case referred to in Subsection 1(c). For the case referred to in Subsection 1(a), no limitation has been included regarding the types of personal data that may be provided.

For a further explanation, see paragraph 5.4 of the general part of the Explanatory Memorandum.

### **Section 4.3**

Section 4.3 contains a further regulation of the requirements for data provision, based on the delegation basis in Section 4.7(e) of the Act. For a further explanation, including regarding the relationship between Section 4.3 and the Personal Data Protection BES Act, please refer to paragraph 5.1 of the general part of the Explanatory Memorandum.

### **Section 5.1**

Section 5.1 contains transitional rules regarding training requirements for professionals in regular childcare (part a) and professionals and host parents in plus childcare (part b). The transitional law grants deferred effect to part of these training requirements and sets other, lower training requirements for the duration of the deferral. Part a regulates that until 31 December 2029, the minimum education and experience requirement for professionals is a basic vocational education (MBO-2 or CVQ-2). This is in deviation from Section 2.8, which requires either vocational training (MBO-3) or basic vocational training (MBO-2 or CVQ-2) with an experience certificate. Part b regulates that up to and including 31 December 2029, host parents in plus care and the professionals referred to in Section 2.27 Subsection 1, also in plus care, are allowed to have vocational training (MBO-3). This is contrary to Section 2.27, which requires a middle management training (MBO-4) or a vocational training (MBO-3) with an experience certificate. With effect from 1 January 2030, Sections 2.8 and 2.27 shall apply in full.

For a further explanation, see paragraph 13.2 of the general part of the Explanatory Memorandum.

### **Section 5.2**

The Order, once adopted, shall enter into force at a time to be determined by royal decree. This may be set differently for the various sections or parts thereof. For a further explanation of the intended entry into force, please refer to paragraph 13.1 of the general part of the Explanatory Memorandum.

State Secretary for Social Affairs  
and Employment,

J.N.J. Nobel