

Who's Minding the Kids? A Homecare Guide

This pamphlet deals with some of the legal concerns of persons who are caring for children in their own homes. This pamphlet talks about your rights and responsibilities when you look after children on a regular basis in your home. If you are caring for children while their parents work or go to school - or if you are hoping to do so - the information in this pamphlet will be of interest to you. Other pamphlets on this subject are **A Parent's Guide** and **A Sitter's Guide**. The pamphlets are intended to help both parents and sitters.

What is my legal relationship to the parents of the children I babysit?

When you agree to mind children you make a contract with the parents of the children. As a babysitter in an informal childcare arrangement, provincial labour laws and provincial minimum wage laws do not apply to your situation. You must negotiate the terms of the contract including your wages and hours of work. Putting the terms of your contract in writing will help you if a misunderstanding does occur. Even if the contract is not in writing it will be a legally binding agreement, which may be enforced in court.

Do I have to report the income I make from minding children?

Yes, you must report all your income from childcare to **Canada Custom and Revenue Agency**. If you carry on a

business of caring for children in your home you may be eligible to deduct some of the costs of carrying on that business. The income tax system can be complex and you should ask for advice if you do not feel comfortable or confident filling out your return. For more information please contact **Canada Revenue Agency** - <http://www.cra-arc.gc.ca>

What are my responsibilities?

When you look after children you have certain legal responsibilities. These include:

- You must supervise and care for the children in your charge and protect them from harm.
- You must never do any physical or emotional harm to the children.
- You must make sure the children in your care cause no harm to others or their property.

What are my responsibilities if I drive with children in my car?

If you intend to drive with children in the car the **Motor Vehicle Act** says you must make sure that all passengers under the age of sixteen are properly buckled up. Infants and younger children must be properly secured in a child seating and restraint system as required by law.

If the children in your care are riding bicycles, they must be wearing proper bicycle helmets with the chin straps fastened.

What if a child in my care gets hurt?

When children are in your care you are responsible for any harm or injury, which may come to them as a result of your negligence. Negligence is the failure to take reasonable care. For example, a child in your care may fall down a stairwell that you left unprotected and injure him or herself. Your failure to properly supervise the child or to protect from injury by guarding against the hazard could be negligent.

Your legal duty to the children in your care is to supervise and care for them. You must make your home safe from hazards to which they may be exposed.

If a child in your care should require medical treatment it is best to contact the parents immediately so they may give their consent to the treatment. If parents cannot be contacted do not sign any forms for consent to treatment. In New Brunswick doctors can give emergency treatment to children without the consent of a parent.

Who is responsible for the children's actions?

While you have the care and control of children you could also be held responsible for damage or losses caused by **their** misbehaviour or negligence. If a child in your care ran into the street and a driver was forced to swerve to avoid him or her and an accident resulted, your failure to provide adequate supervision

would make you responsible for any losses. The injuries caused by the child's actions become your responsibility.

Can I discipline a child?

From time to time you may have to discipline children to properly control and supervise them. It is never advisable to strike a child in your care. Even if you did not injure the child you could be charged criminally or sued. Ask the parents about potential behaviour problems and how they want you to deal with them.

Can I protect myself against risk?

As you can see, caring for children may involve risk. If a court finds you responsible for injuries to the children in your care, or injuries to another person caused by the children in your care, you may be ordered to pay money for damages. You can help protect yourself against these risks by keeping your tenant's, homeowner's and automobile insurance up to date. You should keep enough coverage to protect against awards of damages. You may require special coverage.

Do I require government approval to care for children?

Not necessarily. However, if you care for more than two infants under two years of age, or more than four children from two to five years of age, or more than eight children of the age of six and over, or more than six children of a combination

of ages, you are required to get approval from the **Department of Family and Community Services**. **The number of children in your care includes your own children under twelve years of age.**

You may be required to have government approval if the parents receive a day care subsidy from the **Department of Family and Community Services**. If you have questions about day care approval and standards contact **Family and Community Services** at one of these numbers.

Moncton	856-2414
Saint John	1-866-441-4340
Fredericton	1-866-444-8838
Edmundston	735-2842
Restigouche	789-6536
Chaleur	547-2055
Miramichi	624-2108
Péninsule acadienne	336-3054

Is there anything else I should know?

Children depend on their parents and care givers to care for them and protect them from harm. The law says that any person with reason to believe that a child is being abused or abandoned must report this. They should call their local Child Protection Branch of the **Department of Family and Community Services**. Failure to do this is an offence. **The number to call is 1-888-99-ABUSE**

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