

THE KILIFI COUNTY CHILD CARE FACILITIES BILL, 2016

ARRANGEMENT OF CLAUSES

Clauses

PART I—PRELIMINARY

- 1—Short title
- 2—Interpretation

PART II—FUNCTIONS AND POWERS OF THE DEPARTMENT

- 3—Functions of the Department
- 4—Powers of the Department

PART III—REGISTRATION, LICENSING AND INSPECTION OF CHILD CARE FACILITIES

- 5—licencing of child care facilities
- 6—Application for a license
- 7—Issue of licenses
- 8—Application for renewal of a license
- 9—Conditions of a license
- 10—Revocation, alteration or suspension of license
- 11—Surrender of license
- 12—Appeals
- 13—Publication of order
- 14—Inspectors
- 15—Inspection of facilities
- 16—Power to enter facility

PART IV—MISCELLANEOUS PROVISIONS

- 17—Protection from personal liability
- 18—Offences
- 19—Regulations

A Bill for

AN ACT of the Kilifi County to provide for the registration, licensing and inspection of child care centres in the county and for connected purposes.

Enacted by the Kilifi County Assembly as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Kilifi County Child Care Facilities Act, 2016.

Interpretation

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

“applicant” means an individual applying for a license under this Act;

“child” means a person under the age of six years;

“child care” means the temporary care and supervision of a child and may include protection, supervision and training of a child.

“Department” means the county government department responsible for matters relating to Education.

“Executive Committee Member” means the county Executive Committee Member responsible for matters relating to Education, Youth Affairs and Sports

“facility” means any place in which child care is offered at anytime to More than five children all of whom are less than six years of age; and

“inspector” means an inspector deployed under section 14.

PART II—FUNCTIONS AND POWERS OF THE DEPARTMENT

Functions of the Department

3. The Department shall—

- (a) regulate and license child care facilities within the county;
- (b) develop and implement the policy on child care facilities;
- (c) develop standards for child care facilities;
- (d) receive and investigate complaints on child care facilities; and
- (e) carry out any other activity relating to child care facilities that may be necessary or assigned by any national or county

Powers of the
Department

legislation.

4. The Department shall have all the necessary powers for the execution of its functions under this Act.

PART III—REGISTRATION, LICENSING AND INSPECTION OF CHILD CARE FACILITIES

Licensing of child
care facilities

5. (1) No person shall maintain or operate a facility unless it is registered and licensed in accordance with this Act.

(2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding two million or to an imprisonment term of not more than four years.

Application for a
license

6. (1) An application for a license under this Part shall be in writing to the Department and in the prescribed form and shall be accompanied by the prescribed fee.

(2) The Department may —

(a) issue a license, in accordance with this Act;

(b) refuse to issue the license on any ground which may appear to the Department to be sufficient and inform the applicant, in writing, the reasons; or

(c) cancel, vary or suspend any license if, in the finding of the Department, the license is found to have contravened the Act for the operation of the facility.

Issue of licenses

7. (1) The Department shall issue licenses to applicants subject to such lawful conditions as the Department may determine.

(2) Every license shall specify the premises upon which the business specified in the license may be carried on.

(3) The Department, after consultation with the Executive Committee Member, shall prescribe the fees payable on the issue of licenses under this Act.

(4) The Department shall, at least thirty days before granting a license under this Act, give notice of the proposed grant in the County Gazette and in such other manner as the Department may determine.

(5) The notice referred to in subsection (3) shall—

- (a) specify the name or other particulars of the person or class of persons to whom the license is to be granted;
- (b) state the purpose for the proposed license and indicate the date such license is proposed to be issued to the successful applicant; and
- (c) invite objections to the proposed grant of license and direct that such objections be lodged with the Department within fourteen days following the date of the notice.

(6) The Department may after considering the objections, if any, made under this section, grant the license applied or, subject to such terms and conditions as may be specified in the license.

(7) The issuance of a license to an applicant under this Act shall not be withheld without reasonable cause.

(8) A license issued under this Act is not transferable.

(9) The Department shall ensure that an updated register is kept and maintained for all licenses issued pursuant to this part.

Application for
renewal of a license

8. (1) An application for the renewal of a license under this Act shall be made to the Department not later than the first day of the month of June in which the current license is due to expire.

(2) Despite subsection (1), a late application may be made upon payment of a late application fee as may be prescribed by the Department.

Conditions of a
license

9. (1) A license issued under this Act shall be subject to such conditions as the Department may determine and as specified in the license.

(2) The Department may at anytime during the validity of a

license— (a) vary the conditions of the license; or

(b) impose conditions or further conditions on the license.

Revocation, alteration
or suspension of
license

10. The Department may revoke, alter or suspend a license issued under this Act if—

- (a) an offence under this Act or in respect of the licensed activity under any other written law, has been committed by the license holder or any employee of the license holder; or

(b) a condition of the license has been contravened or not complied with.

Surrender of license

11.(1) The holder of a license which is revoked shall immediately surrender it to the Department.

(2) A license holder may, at anytime, surrender the license to the Department and the license shall cease to have effect forthwith.

Appeals

12.(1) An applicant for or the holder of a license who is aggrieved by a decision of the Department on—

(a) the grant, refusal, renewal, variation or revocation; or

(b) the conditions imposed on the grant, renewal or variation, of a license,

May appeal to the Executive Committee Member.

Publication of order

13. Where a revocation order has been made under section 10 directing that a license be revoked, the Department shall inform the public of that order in such manner as it considers necessary under the circumstances.

Inspectors

14.(1) The County Public Service Board may deploy a public officer working in the county to inspect a facility operating under this Act.

(2) Despite subsection (1), the County Public Service Board shall ensure that the inspector deployed shall be suitably qualified to carry out the inspection.

Inspection of facilities

15. An inspector deployed under section 14 shall—

(a) inspect facilities in respect of which an application for a license is made; and

(b) make periodic inspections of licensed facilities.

Power to enter facility

16.(1) An inspector may enter and carry out an investigation in respect of any premises where the Department has reasonable ground to believe that a facility is operated in contravention of this Act.

(2) Despite subsection (1), the inspector shall produce a valid identification document before entering any premises.

Protection from
personal liability

PART IV—MISCELLANEOUS PROVISIONS

17. No action or omission by a public officer or any person carrying out a function under this Act shall, if the act was done in good faith for the purpose of carrying out the provision of this Act or any other law, subject the person to any liability, action, claim or demand.

Offences

18. A person who—

- (a) operates a facility without a valid license;
- (b) fails to observe any terms and conditions imposed on the issue of a license; or
- (c) contravenes an order of the Department under section 9, commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand or imprisonment for a term not exceeding one year.

Regulations

19. (1) The Executive Committee Member may make regulations for the better carrying out into effect of any provision of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for the—

- (a) minimum size of the facility;
- (b) standards to be observed;
- (c) procedure for an appeal to the Executive Committee Member; and
- (d) investigation of complaints.

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose of this Bill is to provide for the registration, licensing and inspection of child care centres in the county and for connected purposes.

Part I (Clauses 1-3) contains preliminary matters

Clauses 1 and 2 provide for the short title of the Bill and interpretation of terms respectively.

Among the terms interpreted in clause 2 is “facility”. This clause also interprets other terms as used in the Bill.

Part II (Clauses 3-4) provides the functions and powers of the Department responsible for matters relating to children.

The functions include the regulation of child care facilities within the county and receiving and investigating complaints on child care facilities.

Part III (Clauses 5-15) contains provisions on registration, licensing and inspection of child care facilities

Clause 5 is on the licensing of child care facilities while clause 6 provides how an application for a license should be made. Clause 7 is on the issue of licenses while clause 8 is on an application for renewal of a license. Clause 9 sets out the conditions of a license with clause 10 on the revocation, alteration or suspension of a license. Clause 11 deals with surrender of a license while clause 12 is on appeals. Clause 13 requires that where a license is revoked, the Department must inform the public. Clause 14 provides for inspectors while clause 15 provides for inspection of facilities. Clause 16 empowers an inspector to enter and carry out an investigation in respect of any premises where the Department has reasonable grounds to believe that a facility is operated in contravention of this Act.

Part IV (Clauses 16-19) sets out the miscellaneous provisions

Clause 17 provides public officers with protection from personal liability while clause 18 is on offences. Finally, clause 19 gives the Executive Committee Member the power to make regulations.

Dated the....., 2016

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Antony Ndune Nzaka

*Chairperson of Early childhood
education and children’s
welfare of the County Assembly
of Kilifi*