

**THE NAKURU COUNTY CHILD CARE FACILITIES BILL, 2014**

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*Clauses*

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**A Bill for**

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

**Enacted** by the Nairobi County Assembly as follows—

**PART I—PRELIMINARY**

- Short title
1. This Act may be cited as the Nakuru County Child Care Facilities Act, 2014.
- Interpretation
2. In this Act, unless the context otherwise requires—
- “applicant” means an individual applying for a licence 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 also include the provision of a children's program;
- “Department” means the county government department responsible for matters relating to children;
- “Director” means the head of the Department;
- “Executive Committee Member” means the county Executive Committee Member responsible for matters relating to children;
- “facility” means any place in which child care is offered at any time 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

legislation.

Powers of the  
Department

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 four years or both.

Application for a  
licence

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

(2) The Director may—

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

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

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

Issue of licences

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

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

(3) The Director, after consultation with the Executive Committee Member, shall prescribe the fees payable for the issue of licences under this Act.

(4) The Director shall, at least thirty days before granting a licence under this Act, give notice of the proposed grant in the County Gazette and in such other manner as the Director 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 licence is to be granted;
- (b) state the purpose for the proposed licence and indicate the date such licence is proposed to be issued to the successful applicant; and
- (c) invite objections to the proposed grant of licence and direct that such objections be lodged with the Director within fourteen days next following the date of the notice.

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

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

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

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

Application for renewal of a licence

**8.** (1) An application for the renewal of a licence under this Act shall be made to the Director not later than the first day of the month of June in which the current licence 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 Director.

Conditions of a licence

**9.** (1) A licence issued under this Act shall be subject to such conditions as the Director may determine and as are specified in the licence.

(2) The Director may at any time during the validity of a licence—

(a) vary the conditions of the licence; or

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

Revocation, alteration or suspension of licence

**10.** The Director may revoke, alter or suspend a licence 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 licence holder or any employee of the licence holder; or

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

Surrender of licence

**11.** (1) The holder of a licence which is revoked shall immediately surrender it to the Director.

(2) A licence holder may, at any time, surrender the licence to the Director and the licence shall cease to have effect forthwith.

Appeals

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

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

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

may appeal to the Executive Committee Member.

Publication of order

**13.** Where a revocation order has been made under section 10 directing that a licence 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 12 shall—

(a) inspect facilities in respect of which an application for a licence 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 grounds 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.

**PART IV—MISCELLANEOUS PROVISIONS**

Protection from  
personal liability

**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 licence;

(b) fails to observe any terms and conditions imposed on the issue of a licence; or

(c) contravenes an order of the Department under subsection 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 licence should be made. Clause 7 is on the issue of licences while clause 8 is on an application for renewal of a licence. Clause 9 sets out the conditions of a licence with clause 10 on the revocation, alteration or suspension of a licence. Clause 11 deals with surrender of a licence while clause 12 is on appeals. Clause 13 requires that where a licence 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 ....., 2014

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*Member of the County Assembly*