

THE ISIOLO COUNTY CHILD CARE FACILITIES BILL, 2014

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A Bill for

AN ACT of the Isiolo County Assembly to provide for the management, licensing and inspection of child care centres in the county and for connected purposes

ENACTED by the County Assembly of Isiolo as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Isiolo County Child Care Facilities Act, 2014 and shall come into operation upon publication in the county Gazette.

Interpretation

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

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

“child” means an individual who has not attained the age of eighteen years;

“child care” means the care and supervision of a child and includes the protection, supervision, rehabilitation and training of a child;

“Department” means the county government department responsible for matters relating to education and social services;

“Executive Committee Member” means the county Executive Committee Member responsible for matters relating to education and cultural services;

“inspector” means a person deployed by the County Public Service Board as an inspector under this Act and includes a health inspector;

“licence” means a licence issued by the Executive Committee Member to operate a facility and includes a provisional license;

“licensee” means an individual who holds a licence issued under this Act;

“program” means the activities planned to help the children's physical, social, emotional and learning development; and

“supervisor” means a person who is responsible for the management of a child care facility and its programs.

PART II—ADMINISTRATION OF THE DIRECTORATE

Functions of the Department

- 3.** The Department is responsible for—
- (a) developing county policies and legislation on child care facilities for consideration by the County Executive Committee;
 - (b) implementing county policies and legislation on child care facilities;
 - (c) licensing child care facilities;
 - (d) protecting the children in the child care facilities;
 - (e) regulating the child care facilities within the county;
 - (f) receiving and investigating complaints on child care facilities; and
 - (g) carrying 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 powers necessary for the proper performance of its functions under this Act.

Appointment of inspectors

- 5.** (1) The County Public Service Board may deploy a public officer working in the county to inspect a facility operating under this Act.
- (2) A person is qualified for appointment as an inspector if that person—
- (a) is a citizen of Kenya;
 - (b) holds a diploma in a relevant field from an institution recognized in Kenya;
 - (c) has at least five years experience in a profession directly relevant to child care facilities; and
 - (d) meets the requirements of leadership and integrity set out in Chapter six of the Constitution.

Duties of an inspector

- 6.** An inspector deployed under section 5 shall—

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- (a) regularly inspect child care facilities to ensure compliance with the applicable laws;
- (b) conduct research and disseminate the information for the purpose of improving standards in child care facilities;
- (c) carry out supervisory visits to ensure the improvement of the quality of teaching, rehabilitation and training in child care facilities;
- (d) write reports to advise the Department on matters relating to child care facilities; and
- (e) make periodic inspections of licensed facilities.

Powers of an inspector

7. (1) An inspector shall have all powers necessary for the proper performance of their functions under this Act.
- (2) Without prejudice to the generality of subsection (1), an inspector shall have the power to—
- (a) enter any child care facility;
 - (b) make inquiries of any person employed at a child care facility or who has responsibility over that facility; or
 - (c) inspect and take copies of records required to be kept under this Act or any other law applying to child care facilities;
 - (d) carry out investigations in respect of any premises where the Department has reasonable grounds to believe that a child care facility is being operated in contravention of this Act; and
 - (e) undertake any activity necessary for the fulfilment of any of the functions of an inspector.
- (3) Despite subsection (1), the inspector shall produce a valid identification document before entering any child care facility.

PART III—REGISTRATION AND LICENSING OF CHILD CARE FACILITIES

Requirement to register a child care facility

8. (1) A person shall not operate a child care facility unless it is registered under this Act.
- (2) A person who operates a child care facility which is not registered

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under this Act commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings.

Licensing of a child care facility

9. (1) An applicant seeking to operate a facility shall apply to the Department for a licence in the prescribed manner and furnish any information as the Department may require.

(2) The Department may, on application, issue a licence to operate a facility, to an applicant if it is satisfied that—

(a) the applicant and the facility comply with all prescribed requirements;

(b) the facility complies with all relevant county and national laws;

(c) a health inspector has inspected the child care facility and certified that the child care facility is in compliance with the law relating to public health; and

(d) the applicant has paid the prescribed fee.

(3) A licence may be issued subject to such terms and conditions as the Department may determine, and it may establish categories of licences for different types of facilities.

(4) A licence to operate a facility ceases to have effect when—

(a) the ownership of the facility changes; or

(b) the responsibility for the management of the facility is changed to a person other than the licensee.

Change in facility

10. A licensee shall, in writing, notify the Department prior to any significant change in any physical or operating aspect of the facility.

Requirement of a new licence

11. The Department may require a licensee to apply for a new licence as a result of the changes referred to in section 9.

Validity and renewal of a licence

12. (1) A licence issued under this Act shall be valid for one year.

(2) A licensee seeking to renew a licence to operate a facility shall apply to the Department in the prescribed manner.

Requirement of a compliance certificate from a health inspector

13. (1) The Department shall not issue or renew a licence before a health inspector inspects the child care facility in respect of which the application for issuance or renewal is made.

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(2) The health inspector shall, after inspection of the child care facility and confirmation that it is in compliance with the law relating to public health, issue a compliance certificate to the child care facility.

Inspections to be carried out regularly

14. (1) An inspection shall be carried out in every child care facility at least four times in every financial year and not more than four months shall elapse between the date of one inspection and the date of the next inspection.

(2) The inspections referred to in subsection (1) include inspections by health inspectors.

Licensing powers of the Department

15. Where the Department has reasonable grounds to believe that a facility would not operate or is not operating in accordance with the prescribed standards or the terms of its licence, and after giving the applicant or licensee, as the case may be, the opportunity to be heard, it may—

- (a) refuse to issue a licence;
- (b) refuse to renew a licence;
- (c) impose conditions on a licence;
- (d) suspend a licence; or
- (e) revoke a licence.

Order to close facility

16. The Department may issue an order to the supervisor of a facility directing them to cease to operate the facility or otherwise to comply with the decision of the Department within such time as may be specified in the order.

Publication of order

17. Where an order has been made under section 15 directing that a facility cease to operate, the Department shall inform the public of that order in such manner as it considers necessary under the circumstances.

PART IV—MISCELLANEOUS PROVISIONS

Obligation of the county government

18. The county government shall progressively establish and maintain in each ward the following facilities—

- (a) a child care facility for children who are orphans;

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(b) a child care facility for children who have been removed from their homes for various reasons; and

(c) a child care facility for children who are required to undergo rehabilitation.

Appeals

19. A person aggrieved by the decision of the Department under this Act may appeal, within fourteen days from the date of being notified of the decision, in writing, to the Executive Committee Member.

Protection from personal liability

20. No action or omission by the Executive Committee Member or staff of the Department 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

21. A person who—

(a) operates a child care 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 15,

commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding one year.

Regulations

22. (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) application form to operate a child care facility;

(b) application form to renew a licence;

(c) minimum size of the child care facility;

(d) investigation of complaints;

(e) maximum number of children in a child care facility;

(f) curriculum and programs to be used in child care facilities;

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- (g) standards to be observed in child care facilities;
- (h) form of a health inspector's compliance certificate; and
- (i) any other matter the Executive Committee Member considers necessary for the administration of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the management, licensing and inspection of child care centres in of Isiolo County. The structure of the Bill is as follows:

Part I (clauses 1–2) of the Bill contains the preliminary provisions.

Clause 1 states the title of the Bill while clause 2 deals with interpretation of terms as used in the Bill. It defines “child care” to mean the care and supervision of a child and includes the protection, supervision, rehabilitation and training of a child.

Part II (clauses 3-7) of the Bill deals with administration of the Department

Clause 3 is on functions of the Department which include, among others, developing county policies and legislation on child care facilities. Clause 4 provides for powers of the Department which include, among others, all powers necessary for the proper performance of its functions under this Act.

Clause 5 is on appointment of inspectors while clause 6 provides for duties of inspectors. These include, among others, to regularly inspect child care facilities to ensure compliance with the applicable laws and to conduct research and disseminate the information for the purpose of improving standards in child care facilities. Clause 7 gives inspectors the powers necessary for the proper performance of their functions under the Act.

Part III (clause 8-17) provides for licensing of child care facilities

Clause 8 provides for the requirement of registration for each child care facility while clause 9 is on licensing of a child care facility. It requires an applicant seeking to operate a facility to apply to the Department for a licence in the prescribed manner and furnish any information as the Department may require while clause 10 is to the effect that a licensee shall, in writing, notify the Department prior to any significant change in any physical or operating aspect of the facility.

Clause 11 is on requirement of a new licence while clause 12 requires a licensee seeking to renew a licence to apply to the Department in the prescribed manner. Clause 13 sets out the requirement of a compliance certificate from a health inspector while 14 provides that an inspection should be carried out in every child care facility at least four times in every financial year and not more than four months should elapse between the date of one inspection and the date of the next inspection.

Clause 15 provides for licensing powers of the Department while clause 16 is on the issuance of an order to close a child care facility. Clause 17 states that the Department should inform the public where it closes down a child care facility.

Part IV (clause 18-22) is on miscellaneous provisions

Clause 18 sets out an obligation of the county government to establish child care facilities while 19 provides an avenue of appeal to a person dissatisfied with a decision under the Act. Clause 20 is on protection from personal liability while clause 21 is on offences. Clause 22 gives the Executive Committee Member the power to make regulations for the better carrying out into effect of any provision of the Act.

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Dated the2014

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Executive Committee Member, Education and Cultural Services