

CHAPTER 180

THE DAY CARE CENTRES ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 180

THE DAY CARE CENTRES ACT

An Act to provide for regulation of the establishment of day care centres.

[1st July, 1981]

[G.N. No. 70 of 1981]

Act No. 17 of 1981

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh180s1]1. Short title

This Act may be cited as the Day Care Centres Act.

[PCh180s2]2. Interpretation

In this Act, unless the context otherwise requires—

"child" means a person of the age of between two and six years;

"day care centre" means any premises, other than an approved school, a children's home or a nursery school, where fifteen or more children are received to be cared for and maintained during day time in the absence of their parents or guardians;

"health officer" means a public officer for the time being employed as and performing the duties of a health officer;

"local authority" means a City Council, a Municipal Council, a Town Council or Village Council established or deemed to have been established under the Local Government (Urban Authorities) Act * or a District Development Council established under the Decentralisation of Government Administration (Interim Provisions) Act *;

"Minister" means the Minister responsible for social welfare;

"proper organisation" includes a parastatal organisation, a voluntary agency a religious organisation, a co-operative society and any mass organisation established under the Party;

"Registrar" means the Registrar of day care centres appointed under section 3.

PART II

ESTABLISHMENT AND MANAGEMENT OF DAY CARE CENTRES (ss 3-8)

[PCh180s3]3. Registrar of day care centres

(1) The Commissioner for Social Welfare is hereby appointed to be the Registrar of Day Care Centres, and shall perform the functions of the Registrar specified in this Act or any other written law.

(2) Every Regional Welfare Officer shall be an Assistant Registrar of Day Care Centres and shall, subject to this Act and to the directions of the Registrar, perform the functions of the Registrar in the region for which he is the Regional Welfare Officer.

[PCh180s4]4. Prohibition on establishment of day care centre

(1) No person shall, in any premises, carry on or permit the carrying on of a day care centre unless those premises are registered in accordance with section 6.

(2) The registration of any premises under section 6 shall cease to have effect upon the expiration of thirty days from the date of any change in the ownership or management of the day care centre carried on there.

(3) For the purposes of this Act, the establishment of a day care centre shall be deemed to include—

(a) the provision in or at any premises of any facilities suitable for the maintenance of and care of children during day time in the absence of their parents or guardians;

(b) the reopening of any day care centre which has remained closed for a period of six or more consecutive months;

(c) the voluntary transfer, whether by way of partnership or in any other way, of the ownership or management of any day care centre;

(d) the transfer of any day care centre to a new site save where that transfer has taken place with the prior approval in writing of the Registrar.

[PCh180s5]5. Qualifications for registration of premises

(1) On receipt of an application for registration of premises, the Registrar shall cause an inspection of the premises to be made, and may register them as a day care centre if he is satisfied that—

(a) the premises are suitable for the carrying on in them of a day care centre;

(b) the applicant has sufficient financial resources to maintain those premises in accordance with the requirements of proper day care centre management specified in regulations made under section 17;

(c) the applicant has or is able to provide on the premises all facilities necessary for the management of a day care centre;

(d) the ownership of the premises is not the subject of any proceedings before any court or other authority.

(2) In deciding whether or not the premises are suitable for registration under section 6, the Registrar shall take into account the proposed programmes for the maintenance and care of the children and, in particular, whether—

(a) those programmes would, if carried out in those premises, promote the development of children attending at the centre into cultured, good mannered persons;

(b) the programmes of the day care centre would provide a sound foundation for enabling the children to grow up into healthy and responsible citizens of the United Republic;

(c) the facilities of proposed day care centre are suitable for the preparation of children for primary education.

[PCh180s6]6. Application for registration

(1) An application for registration of premises as a day care centre shall be made in the prescribed manner to the Registrar and shall be accompanied by the prescribed fees.

(2) If the Registrar is satisfied that the premises comply with the requirements of section 5, he may grant an application made under subsection (1), and shall enter the name of the applicant in the appropriate register in the manner specified in section 9.

(3) The Registrar may grant or refuse any application for registration of premises, or may grant it subject to such conditions as he may see fit to impose; but where conditions are imposed the premises shall not be regarded as registered for the purposes of section 8(2)(a).

(4) Where the Registrar grants an application under this section, he shall issue to the applicant a registration certificate in relation to premises registered, containing a clear and adequate description of the premises concerned and such other particulars as the Minister may prescribe by regulations made under section 17.

[PCh180s7]7. Restriction on persons managing centres

(1) No person shall, on or after the commencement of this Act, own or manage a day care centre unless he is a proper organisation who is registered in that behalf under section.

(2) Notwithstanding the provisions of subsection (1), any person other than a proper organisation may, with the prior written approval of the Minister, apply to the Registrar for registration as owner or manager of a day-care centre.

(3) Any person who contravenes or fails to comply with the provisions of subsection (1) commits an offence and is be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding five years or to both that fine and imprisonment, and shall in addition pay a fine of one hundred shillings for every day during which the offence continues after he has been alerted to the commission of the offence.

[PCh180s8]8. Registration of owners of centres

(1) Subject to subsection (2), an application for registration as owner or manager of a day care centre shall be made to the Registrar in the prescribed manner and shall be accompanied by the prescribed fees.

(2) The Registrar may grant an application for registration under this section only if he is satisfied that—

(a) the premises in which the applicant proposes to establish a day care centre have been inspected and registered under section 6;

(b) he has sufficient financial resources such as would enable him to secure appropriate staff, and to provide and care for children, in accordance with the standards required of a day care centre;

(c) he is not disqualified in any other way from being registered, or a person whose registration has previously been cancelled; and

(d) he meets in all respects such other requirements which may be prescribed in respect to owners or managers of day care centres.

(3) The Registrar shall issue an appropriate certificate to the person registered, containing such particulars as the Minister may prescribe.

PART III

ADMINISTRATION AND ENFORCEMENT PROVISIONS (ss 9-15)

[PCh180s9]9. Register maintained by Registrar

(1) The Registrar shall cause to be kept and maintained separate registers in the prescribed form in respect of registered day care centres and registered owners or managers of day care centres.

(2) Each register shall contain the name of every day care centre and every owner or manager of a day care centre registered under this Act together with such other particulars, relating, respectively, in the day care centre and the owner or manager, as the Registrar may consider relevant, and shall delete or amend any of those particulars as circumstances may require.

(3) At least once each year, the Registrar shall cause to be published in the Gazette, or in any newspaper published and circulated throughout the United Republic, a

list of all day care centres whose registration has been cancelled and those which have been newly registered.

[PCh180s10]10. Inspection and search

(1) The Registrar, an Assistant Registrar, a Health Officer and any other public officer authorised by the Minister in writing in that behalf may, if he has reasonable cause to believe that day care service is provided for children in any premises, demand that the person in charge of those premises allow him free entry onto the premises and afford him all reasonable facilities to ascertain whether the day care service is not provided in contravention of the provisions of this Act.

(2) If the officer, after producing proof of his authority to any person who may reasonably require it, is unable to gain entry to the premises without unreasonable delay or inconvenience, he may enter the premises without the consent of the person in charge and inspect them for the purposes specified in subsection (1).

(3) Any person who prevents or obstructs any officer acting under this section in the performance of his duties commits an offence and is liable upon conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

[PCh180s11]11. Power to cancel registration

(1) The Registrar may cancel the registration of any premises as a day care centre if he is satisfied that—

(a) the premises on which the day care centre is carried on no longer satisfy the conditions for registration specified in section 5;

(b) that proceedings are pending in any court against the owner or manager of the day care centre for a contravention of any of the provisions of this Act; or

(c) that thirty days have elapsed since the ownership or management of the day care centre changed and the new owner or manager has not yet applied for, or has been refused registration.

(2) The Registrar shall, either of his own motion or upon the petition of any other person, cancel the registration of any owner or manager of a day care centre if he is satisfied that the owner or manager—

(a) knowingly made a false statement or statement which he didn't believe to be true in his application for registration;

(b) no longer meets all or a majority of the requirements of section 8(2);

(c) has been convicted of an offence under this Act involving the disregard of any matter prescribed in relation to the standards of care and attention to be given to children, which are prescribed by the Minister; or

(d) has been guilty of fraudulent conduct or dishonesty in his dealings with parents or guardians of the children attending the day care centre.

(3) The registration of an owner or manager of a day care centre may be cancelled on grounds specified in subsection 2(c) under recommendation of the court by which that owner or manager was convicted of the offence.

(4) When the registration of a day care centre or, as the case may be, of the owner or manager of a day care centre is cancelled the Registrar shall in either case, notify the owner or manager in writing of that fact and of the reasons for the cancellation.

(5) Except in the case of cancellation under subsection (2)(c), no registration shall be cancelled unless an inquiry has been conducted in accordance with regulations made by the Minister in that behalf, giving the owner or manager an opportunity to be heard.

[PCh180s12]12. Power to regulate charges

(1) A day care centre may charge fees or other payments for services rendered or facilities provided to children or to any child by or at the day care centre.

(2) The Minister may, by regulations made under section 17, prescribe the manner in which fees or other payments chargeable by day care centres shall be determined, regulated or reviewed.

(3) In making regulations in respect of matters specified in subsection (2), the Minister may have regard to—

(a) the types of day care services to children available within a particular community;

(b) the need to prevent unduly rapid or frequent variations in fees;

(c) the need to maintain reasonable standards of services rendered by day care centres;

(d) the need to ensure the availability of adequate day care services in rural as well as urban areas;

(e) the need to ensure the availability of adequate qualified staff for service in day care centres;

(f) the need to promote the continued ability of day care centres to maintain efficiency and expand their services to accommodate more children.

(4) In addition to the factors specified in subsection (3), the Minister shall, in making regulations relating to fees and other charges payable to day care centres, take into account the cost of any materials used, the direct and overhead costs of providing the services, the level of any duties or taxes payable by day care centres and any other factors which the Minister may consider relevant.

[PCh180s13]13. Appeals

Any person aggrieved by a decision of the Registrar relating to his registration, or a matter which affects or may affect the validity of his registration or that of his day care centre, under this Act, may appeal to the Minister against that decision and the Minister's decision in the matter shall be final and not appealable in any court.

[PCh180s14]14. Provisions on staff of centres

(1) Every day care centre shall be manned by such number of staff, by whatever name called, who have attained or possess such qualifications as the Minister may prescribe.

(2) The Registrar may, on sufficient grounds exempt any person or category of persons, or any day care centre or category of day care centres, from the provisions of this section or any regulations relating to the number and qualifications of staff employed in day care centres.

(3) The staff of a day care centre shall be employed on such terms and conditions as the owner or manager shall determine, subject to such limitations, qualifications exemptions or conditions as the Minister may prescribe.

[PCh180s15]15. Exemptions

(1) The Minister may, by order published in the Gazette, disapply any of the provisions of this Act in relation to any person or category of persons, or any day care centre or category of day care centres.

(2) Every order made under this section shall be tabled before, and be approved by resolution by the National Assembly, within three months from the date of its publication in the Gazette.

PART IV

MISCELLANEOUS PROVISIONS (ss 16-18)

[PCh180s16]16. Offences

(1) Any person who establishes or maintains any day care centre in premises which have not been registered under this section is guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months, or to both that fine and imprisonment.

(2) Any person who—

(a) maintains or conducts, or permits to be maintained or conducted any day care centre in respect of which an order for closure has been made;

(b) uses or permits to be used in any day care centre any material or thing to use of which has been prohibited by the Minister under this Act;

(c) being the owner or manager of the day care centre, or a person concerned with the administration or management of that day care centre, collects, receives or charges any fees or other payments which have not been approved by the Minister;

(d) obstructs, resists or impedes the registrar or other officer authorised by the Registrar, in the exercise of his duties;

(e) refuses or fails without reasonable excuse, to give any information which he is lawfully required under this section to give;

(f) gives any information which is false in a material particular or which he reasonably believes to be untrue,

commits an offence and is liable upon conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(3) Any person who commits an offence under this Act in respect of which no penalty is specifically provided, shall be liable upon conviction, in the case of a first offence, to a fine not exceeding one thousand shillings, and in the case of a second offence, to a fine not exceeding three thousand shillings, and in the case of a subsequent offence, to a fine not exceeding five thousand shillings.

(4) Where the court is of the opinion, in the case of a second or subsequent offence, that a fine will not meet the circumstances of the case, and that the offence was committed through the personal act, default or capable negligence of the accused person, it may, in lieu of or in addition to any fine, impose a sentence of imprisonment for a term not exceeding twelve months.

[PCh180s17]17. Regulations

(1) The Minister may make regulations for the better carrying out of the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations—

(a) regulating the staff, accommodation and equipment to be provided at day care centres;

(b) prescribing the manner in which fees or any other payments of any description charged or chargeable by any day care centre in respect of service rendered to any child shall be determined, regulated or reviewed;

(c) prescribing the forms to be used for the purposes of this Act;

(d) prescribing fees which shall be payable in respect of matters specified in any regulations made under this section;

(e) prescribing the manner of establishing and specifying the size and functions of Parents Committees for day care centres;

(f) generally requiring persons responsible for the management of day care centres to provide facilities for the welfare of the children attending day care centres; and

(g) relating to any matter which is required or permitted to be prescribed under this Act.

(3) In making regulations under the preceding subsections, the Minister may consult the Ministers responsible for national culture, education and health or any public authority for the purpose of obtaining advice on the matter for which regulations are to be made.

[PCh180s18]18. Transitional provisions

[Transitional provisions.]

