



REPUBLIC OF KENYA
NAIROBI CITY COUNTY ASSEMBLY
FIRST ASSEMBLY – (FIFTH SESSION)
ORDERS OF THE DAY
TUESDAY, JUNE 27, 2017 AT 2.30 P.M.
ORDER OF BUSINESS

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements
8. *. **THE NAIROBI CITY COUNTY EVICTIONS, RESETTLEMENT AND DEMOLITIONS BILL, 2017 (ASSEMBLY BILL NO. 10 OF 2017)**
(Hon. Nelson Masiga, MCA)
(Second Reading)
9. *. **COMMITTEE OF THE WHOLE ASSEMBLY**
The Nairobi City County Childcare Facilities Bill, 2017 (Assembly Bill No. 6 of 2017)
(Hon. Patrick Ngaruiya Chege, MCA)
10. *. **MOTION** – (Chairperson, Sectoral Committee on Labour & Social Welfare)

THAT, this Assembly adopts **THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE RETREAT HELD AT SWEETLAKE RESORT NAIVASHA FROM 23RD TO 26TH JANUARY, 2017**, laid on the Table of the Assembly on Thursday, 15th June, 2017.

...../Notices

NOTICES

I. THE NAIROBI CITY COUNTY CHILDCARE FACILITIES BILL, 2017 (ASSEMBLY BILL NO. 6 OF 2017)

NOTICE is given that the Chairperson of the Sectoral Committee on Children, Early Childhood Education and Vocational Training intends to move the following amendments to the Nairobi City County Childcare Facilities Bill, 2017 at the Committee Stage—

ARRANGEMENT OF CLAUSES

THAT, the Arrangement of clauses be amended:

- (i) In clause 19 by deleting the word **“inspectors”** and substituting therefor the word **“quality assurance and standards officers”**

LONG TITLE

THAT, the Long Title be amended by deleting the word **“inspection”** and substituting therefor the word **“assessment”**

CLAUSE 1

THAT, clause 1 be amended by inserting the word **“County”** immediately before the expression **“Executive Committee Member”**

CLAUSE 2

THAT, clause 2 be amended:

- (i) In the definition of the word **“applicant”** by inserting the words **“legal associations, groups or organizations”** immediately after the word **“individual”**
- (ii) In the definition of the word **“childcare”** by deleting the expression **“may include”** and substituting therefore the word **“shall include welfare,”**
- (iii) In the definition of the word **“child care provider”** by inserting the words **“their agents or representatives”** immediately after the word **“person”**
- (iv) In the definition of the word **“Department”** by deleting the word **“Department”** wherever it appears and substituting therefor the word **“Sector”** and by adding the words **“Youth Affairs, Culture, Children and Social Services”** immediately after the word **“Education”**
- (v) In the definition of the word **“ Executive Committee Member”** by inserting the word **“County”** immediately before the word **“Executive”** and by deleting the words **‘and sports’** and substituting therefor the words **“Culture, Children and Social Services.”**

- (vi) In the definition of the word **“facility”** by deleting the expression **“any place”** and substituting therefor the expression **“designated place”**.
- (vii) In the definition of the word **“inspector”** by deleting the word **“inspector”** wherever it appears and substituting therefor the expression **“quality assurance and standards officer”** and by deleting the numeral **“14”** and substituting therefor the numeral **“20”**
- (viii) by deleting the definition of the word **“child”** and substituting therefor the following definition-
- (a) ‘child’ means a child of tender years who for the purpose of this bill is a child below the age of 6.**
- (ix) inserting the following new definitions in their proper alphabetical sequence-
- a) **‘care giver’ means an individual who takes care of the children while in the child care facility**
- b) **‘protection’ means the care provider shall take all necessary measures to ensure that the rights of the children under their care are not violated”.**
- c) **‘working hours’ means the hours between 8am and 5 pm, between Monday and Friday and shall exclude public holidays**
- d) **“parent” means a mother, father or guardian of a child and includes any person who is responsible under the law to maintain a child or is entitled to a child’s custody;**

CLAUSE 3

THAT, clause 3 be amended:

- (i) by inserting the expression **“the protection of a child under the care of a child care facility in line with the Children’s Act,”** immediately before the word **“registration”** ,
- (ii) by inserting the word **“therefore”** between the words **“facilities”** and **“allowing”**
- (iii) by deleting the words **“and guardians”** appearing immediately after the word **“parents”**
- (iv) by deleting the word **“inspection”** appearing immediately before the expression **“of child care facilities”** and substituting therefor the word **“assessment”**.

(v) by inserting the word **“child friendly”** immediately after the word **“stimulating and”**.

(vi) In paragraph 3(a) by deleting the paragraph entirely and replacing therefor the following new paragraph;

Ensure that every applicant intending to establish or operate a childcare facility does so in a structured manner in line with this Act and any other written law and in doing so, must comply with the best interests of the child

(vii) By deleting paragraph 3(b) entirely and substituting therefor the following new paragraph-

Ensure that the minimum standards of hygiene, safety and care are maintained and are in line with the Occupational Safety and Health Act, 2007 and the Public health Act.

(viii) By inserting the following new paragraph immediately after paragraph (b)-

Ensure that the prescribed basic minimum standards required to operate are met and that a sleeping bay and furniture are amongst them;

(ix) In paragraph 3(d) by deleting the word **“inspection”** and substituting therefor the word **“assessment”**

CLAUSE 4

THAT, clause 4 be amended:

(i) By deleting the word **“Department”** wherever it appears and substituting therefor the word **“Sector”**

(ii) By inserting the following new paragraph immediately after (4)(a)

“Assessment of compliance and quality standards within the provisions of this Act”

(iii) In paragraph 4(e) by deleting the expression **“basic education of children”** appearing immediately after the expression **“regarding”** and replacing therefor the expression **“early childhood care”**.

(iv) By deleting paragraph 4(f) and substituting therefor the following new paragraph:

“ensuring that the curriculum developed for child care facilities by the County Education Board is implemented”

(v) In paragraph (g) by inserting the words **“and the county executive committee member”** immediately after the word **“board**

(vi) By inserting a new paragraph immediately after paragraph (g) as follows;
(gb)“to sensitize the general public on the provisions of this Act and;”

(vii) In paragraph 4(h) by inserting inserting the expression **“in consultation with the County Education Board”** after the expression **“legislation”**

CLAUSE 5

THAT, clause 5 be amended:

(i) By deleting the word **“Department”** and substituting therefor the word **“Sector**

(ii) In paragraph 5(a) by inserting a new sub paragraph immediately after paragraph (a)

(i) Any officer exercising the power of entry under paragraph (a) shall identify himself to the service provider and shall thereafter file a report with the Sector outlining his findings and recommendations thereon”

(iii) In paragraph 5(b) by deleting the expression **“refuse”** appearing before the expression **“to issue”** and replacing therefor the expression **“decline”**.

(iv) In paragraph 5(b) by inserting a new sub paragraph immediately after paragraph (b)

(v) **“(b) (i) if a license is revoked or suspended under paragraph (b), the Sector shall issue a notice letter to the Service Provider outlining the reasons for the revocation and;”**

PART III - TITLE

THAT, the Title to Part III be amended by deleting the expression **“INSPECTION”** and substituting therefor the expression **“ASSESSMENT”**.

CLAUSE 7

THAT, clause 7 be amended:

- (i) By deleting the word **“Department”** and substituting therefor the word **“Sector”**

CLAUSE 8

THAT, Clause 8 be amended

- (i) in sub clause (1) by deleting the word **“inspection”** and substituting therefor the word **“assessment”** and by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (ii) In sub clause (2) by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (iii) By deleting paragraph 8(2) (a) and substituting therefor the following:
“ A sketch or diagram of the facility showing the arrangements and measurements of the rooms including the location of separate toilets for male and female, hand washing facilities, doors and the windows”
- (iv) In paragraph 8(2)(b) by inserting the expression **“and child friendly as per prescribed standards”** after the expression **“fenced”**
- (v) In paragraph 8(2)(c) by inserting the expression **“age appropriate”** immediately after the expression **“proposed”**.
- (vi) By deleting paragraph 8(2) (d) and substituting therefor the following:
“A declaration to adhere to discipline and guidance guidelines inclusive of the Child Protection Policy”
- (vii) By inserting a new paragraph immediately after paragraph (f)
“(fa) a clearance report from the Ethics and Anti-Corruption Commission, the County Public health Department, the Director of Criminal Investigation and evidence that a firefighting system and equipment has been put in place,”
- (viii) By inserting a new paragraph immediately after paragraph (f)
“(fb) provide working day contact details”

CLAUSE 9

THAT, Clause 9 be amended:

- (i) In sub clause 1 by deleting the word **“Department”** wherever it appears and substituting therefor the word **“Sector”**

- (ii) In sub clause 3 by deleting the word **“Department”** and substituting therefor the word **“Sector**
- (iii) In sub clause 4 by deleting the word **“Department”** wherever it appears and substituting therefor the word **“Sector”** and by deleting the word **“thirty”** and substituting therefor the word **“sixty”**
- (iv) In sub clause (5) (c) by deleting the word **“Department”** and substituting therefor the word **“Sector** and by deleting the word **“fourteen”** and substituting therefor the word **“twenty one”**
- (v) In sub clause 6 by deleting the word **“Department”** and substituting therefor the word **“Sector** and by inserting the words **“within fourteen days”** immediately after the expressions **“in the license”**
- (vi) In sub clause 9 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (vii) In sub clause 10 by deleting the expression **“within ten days following”** and replacing therefor the expression **“prior to”**.

CLAUSE 10

THAT, Clause 10 be amended:

- (i) In sub clause 1 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (ii) In sub clause 2 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (iii) In sub clause 4 by deleting the words **“who on compliance”** and replacing therefor the words **“in compliance”** and by deleting the word **“inspectors”** and substituting therefor the word **“quality assurance and standards officers”**

CLAUSE 11

THAT, Clause 11 be amended:

- (i) In sub clause 1 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (ii) In sub clause 2 by deleting the word **“Department”** and substituting therefor the word **“Sector”** and by inserting the expressions **“in consultation with the County Education Board”** between the words **“may”** and **“at”**.
- (iii) By adding the following new sub clause immediately after sub clause

“The Sector shall issue the applicant with written notice of 14 days to effect the variation or imposition in sub section 2.”

CLAUSE 12

THAT, Clause 12 be amended:

(i) In sub clause 1 by deleting the word **“Department”** and substituting therefor the word **“Sector”**

(ii) by adding the following new sub clause immediately after paragraph(b)-

The Sector shall notify the person whose license has been altered, revoked or suspended in writing, within 7 days.

CLAUSE 13

THAT, Clause 13 be amended:

(i) In sub clause 1 by deleting the word **“Department”** and substituting therefor the word **“Sector”** and by adding the words **“...within 7 days and shall cease operations immediately”** immediately after the word **“department”**

(ii) By deleting sub clause 2 entirely.

CLAUSE 14

THAT, Clause 14 be amended:

(i) By deleting sub clause 1 and replacing with the following new sub clause-

“A person aggrieved by the decision of the Sector under this Part may appeal, within fourteen days from the date of being notified of the decision, in writing, to the Executive Committee Member.”

(ii) By inserting a new sub clause immediately after sub clause (2) as follows-
“A party aggrieved by the decision of the Executive Committee Member may appeal to the High Court within thirty days”

CLAUSE 15

THAT, Clause 15 be amended:

(i) by deleting the word **“Department”** and substituting therefor the word **“Sector”** and by deleting the numeral **“11”** and substituting the numeral **“12”** therefor.

(ii) By inserting the following new clause immediately after clause 15-

(16A) “The Department may issue the revocation, alteration, suspension orders or notices under this Part through the ward administrator or the local coordinator of the county government who shall issue a public notice in writing through the National language to the locality or ward where the childcare facility is located”

CLAUSE 16

THAT, Clause 16 be amended:

(i) In paragraph (a) by deleting the words **“and emergency phone numbers”** and substituting therefor the following words-

“,birth certificates, medical records, an updated list of guardians, and emergency contacts and to uphold the childrens’ right to privacy by allowing access to this information only to parents, guardians or authorized persons

(ii) In paragraph (b) by inserting the words **“the transport hours shall be between 6 am and 6 pm”** between the words **“the children”**.

(iii) In paragraph (c) by deleting the words **“and equipment used by the children”** and substituting therefor the following –

“and providing sanitary materials and equipment”

(iv) In paragraph (d) by deleting the paragraph and substituting therefor the following paragraph

“offer a balanced diet to the children at least every four hours in the prescribed portions”

(iii)By deleting paragraph and substituting therefor the following new paragraph-

“ Outdoor play spaces shall be fenced and free from hazards while any outdoor equipment shall take into consideration the child’s size”

(iv)By inserting the following new paragraph immediately after paragraph (e)-

“provide for the welfare and observe the human rights and ensure safety of the children, caregivers and anyone else at the facility.”

(v) By inserting a new sub clause as follows-

2. **“Childcare facilities shall take into account the special needs of children with disabilities and shall have special facilities or modifications to accommodate a child with a disability.”**

(vii) By inserting a new sub clause as follows-

3. **“In the management of the childcare facilities, the child’s best interests shall be of paramount importance.”**

CLAUSE 17

THAT, Clause 17 be amended-

(i) In sub clause (b) by deleting the words **“are at least 18 years old and any staff who is below 18 years of age is working under close supervision of a staff above 21 years of age”** and substituting therefor the following-

“are 18 years and above, have a certificate of good conduct and a medical certificate evidencing soundness of mind”

(ii) In sub clause (c) by deleting the sub clause and substituting therefor the following sub clause-

“it has put in place fire fighting equipment, first aid and other emergency equipment and non-prescription medicine as the county executive committee member may prescribe.”

NEW CLAUSE

THAT, a new clause be inserted immediately after **Clause 17** as follows:-

Sexual offences. (18)(1) Any caregiver who takes advantage of his or her position and induces or seduces a child in their care to have sexual intercourse with him or her or commits any other offence under the Sexual Offences Act 2014, such sexual intercourse not amounting to the offence of rape or defilement, shall be guilty of an offence of abuse of position of trust and shall be liable upon conviction to imprisonment for a term of not less than ten years.

(2) A person who has been convicted of a sexual offence and who fails to disclose such conviction when applying for employment in a child care facility is guilty of an offence and liable upon conviction to imprisonment for a term of not less than three years or to a fine of not less than fifty thousand shillings or to both

(3) A childcare provider shall confirm that a person seeking employment to any position in a childcare facility has not been charged or convicted of an offence under the Sexual Offences Act, 2014.

(4) A childcare provider who knowingly employs a convicted sexual offender in a childcare facility commits an offence and is liable upon conviction to imprisonment for a term not exceeding three years or to a fine not exceeding one million shillings or to both.

CLAUSE 18

THAT, Clause 18 be amended:

- (i) By deleting the words **“accruing to the”** appearing after the word **“rights”**
- (ii) By inserting the following new paragraphs immediately after paragraph (c)
 - (ca) right to provide food for their children if they so wish;
 - (cb) right to know the existing policies and management guidelines in the childcare facility and;
 - (cc) right to know the qualification levels of the caregivers in the facility.

CLAUSE 19

THAT, Clause 19 be amended:

- (i) In sub clause (1) by deleting the sub clause and substituting therefor the following new sub clause-

“The Executive Committee Member may upon request of the Sector, deploy a public officer working in the sector to assess a childcare facility.”
- (ii) In sub clause (2)) by deleting the word **“inspection”** and substituting therefor the word **“assessment”** and by deleting the word **“inspector”** and substituting therefor the word **“quality assurance and standards officer”**

CLAUSE 20

THAT, Clause 20 be amended:

- (i) In the marginal notes by deleting the word **“inspection”** and substituting therefor the word **“assessment”**
- (ii) In sub clause 1 by deleting the word **“inspector”** and substituting therefor the word **“quality assurance and standards officer”** and by deleting the numeral **“19”** and substituting the numeral **“20”** therefor

- (iii) In paragraph (1)(a) by deleting the word **“inspect”** and substituting therefor the word **“assess”**
- (iv) In paragraph (1) (b) by deleting the expression **“periodic”** and substituting therefor the expression **“quarterly”** In the marginal notes by deleting the word **“inspection”** and substituting therefor the word **“assessment”**
- (v) In paragraph (1)(c) by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (vi) By inserting the following new paragraphs immediately after paragraph (d) as follows-
 - (e) **“Assess the facility to ensure implementation and adherence with the provisions of this Act.”**
 - (f) **File a report with the Sector detailing his observations, findings and recommendations from the visit. The report shall be forwarded to the Executive Committee Member who shall give his views in support of the recommendations made or he shall make his own recommendations.**

CLAUSE 21

THAT, Clause 21 be amended;

- (i) In sub clause (1) by deleting the word **“inspector”** and substituting therefor the word **“quality assurance and standards officer”** and by inserting the expression **“with or without notice and ”** between the words **“may”** and **“without”** and by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (ii) By deleting sub clause 2 entirely and substituting therefor the following new sub clause-
 - (2) **Every quality assurance and standards officer in performance of his duties shall, at the time of assessment, possess the appropriate written authorization, and evidence of identity, and shall produce them to the person in charge of the childcare facility concerned or, as the case may be, the person having possession or control of the books, records, or accounts concerned-**
 - (a) **on first entering the premises; and**
 - (b) **whenever subsequently reasonably required to do so by the person in charge.**

CLAUSE 23

THAT, Clause 23 be amended:

- (i) By deleting the entire clause and inserting the following new clause-

General penalty **1. (1) A person who contravenes the provisions of this Act for which no penalty is specified or fails to comply with any order or direction given under this Act, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment to a term not exceeding one year.**

CLAUSE 24

THAT, Clause 24 be amended:

- (i) By deleting sub clause (1) and substituting therefor the following new sub clause-
 - (1) Subject to the provisions of this Act, the Executive Committee Member, in consultation with the County Education Board, shall make regulations-
 - (a) for prescribing anything that may be prescribed under this Act;
 - or
 - (b) generally for the better carrying out of the provisions of this Act
- (ii) In paragraph (2) (c) by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (iii) by inserting the following new paragraphs immediately after paragraph (d)-
 - (e) fees payable under part 111 of this Act
 - (f) nutritional portions for food provision
 - (g) qualifications of caregivers of children under this Act
 - (h) guidelines on maintaining an appropriate staff to child ratio depending on age.
 - (i) parameters in relation to assessment of facilities prior to licensing
 - (j) other matters pertaining to licensing including the grounds for refusal to grant a license and conditions under which a license that may be varied or imposed
 - (k) minimum standards for the health and safety of children and for a satisfactory environment for childcare;

II. Assembly resolved on Wednesday, February 15, 2017 as follows:-

THAT, notwithstanding the provisions of Standing Order 94(4), this Assembly orders that, each speech in a debate on **Bills NOT sponsored by a Committee**, the Leader of the Majority Party or the Leader of the Minority Party be limited as follows:- A maximum of three hours and thirty minutes, with not more than thirty (30) minutes for the Mover, in moving and ten (10) minutes in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each; and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Sectoral Committee, in that Order.

III. Assembly resolved on Wednesday, February 15, 2017 as follows:-

THAT, notwithstanding the provisions of Standing Order 94(4), this Assembly orders that, each speech in a debate on a **Report of a Committee**, a Sessional Paper or any other Report submitted to the Assembly, be limited as follows: - A maximum of sixty (60) minutes for the Mover in moving and thirty (30) minutes in replying, and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each; and that priority be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.

*** Denotes Orders of the Day**
