



**NAIROBI CITY COUNTY ASSEMBLY  
FIRST ASSEMBLY – FIFTH SESSION**

**REPORT OF THE SECTORAL  
COMMITTEE ON CHILDREN EARLY CHILDHOOD EDUCATION AND  
VOCATIONAL TRAINING ON THE CONSIDERATION OF THE NAIROBI  
CITY COUNTY CHILDCARE FACILITIES BILL, 2017**

**Clerks Chambers  
Nairobi City County Assembly  
City Hall Buildings  
Nairobi**

**JUNE, 2017**

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## **APPENDICES**

- i) Matrix of proposed amendments and justifications
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## **1.0 PREFACE**

**Mr. Speaker Sir,**

The Sectoral Committee on Children, Early Childhood Education and Vocational Training is established under Standing Order No. 191. Its mandate pursuant to Standing Order 191(5) is to:-

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) study the programme and policy objectives of departments and the effectiveness of the implementation;*
- c) study and review all county legislation referred to it;*
- d) study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;*
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- f) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185(Committee on Appointments); and*
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*

The Committee comprises the following Members:-

- |                                 |   |                 |
|---------------------------------|---|-----------------|
| 1. Hon. David Kitavi, MCA       | - | (Chairman)      |
| 2. Hon. Kingsley Odida, MCA     | - | (vice Chairman) |
| 3. Hon. Fredrick Obenge, MCA    |   |                 |
| 4. Hon. Elias Otieno Okumu, MCA |   |                 |
| 5. Hon. Alexina Mudi, MCA       |   |                 |
| 6. Hon. Florence Athembo, MCA   |   |                 |

7. Hon. Ngaruiya Chege, MCA
8. Hon. Jack Ngari, MCA
9. Hon. Isaac Ngige, MCA
10. Hon. Njoroge G. Maina, MCA
11. Hon. Ruth Njeri, MCA
12. Hon. Mercy Kariuki, MCA
13. Hon. Jane Muasya, MCA
14. Hon. Elizabeth Sang, MCA
15. Hon. Karen Wanjiku, MCA
16. Hon. Imelda wanjala, MCA
17. Hon. Beatrice Kwamboka, MCA

**Mr. Speaker Sir,**

In accordance with the Second Schedule of the Standing Orders, the Sectoral Committee is mandated to consider all matters relating to:-

*Pre-primary education, childcare facilities, village polytechnics, home craft centres and children welfare*

## **2.0 INTRODUCTION**

**Mr. Speaker Sir,**

The Nairobi City County Childcare Facilities Bill, 2017 was read a First Time on Tuesday 16<sup>th</sup> May, 2017 and thereafter committed to the Sectoral Committee on Children, Early Childhood Education and Vocational Training for consideration pursuant to Standing Order 121.

**Mr. Speaker Sir,**

Pursuant to Article 196(b) of the Constitution of Kenya and Standing Order 121(3) which require public participation in the legislative and other business of the Assembly and its Committees, the Committee placed a notice in the local dailies on Friday 19<sup>th</sup> May, 2017 calling for any



representations and amendments from the public on the Bill. The Committee also identified key stakeholders to the Bill and invited them to either submit their comments or attend Committee meetings where they could give their views on the Bill. Following the notice and the invitations, the Committee received written memoranda from the following stakeholders;--

- i. Kenya Christian Professionals Forum;
- ii. Oxfam Kenya;
- iii. Kenya National Commission On Human Rights;
- iv. East Africa Centre For Law And Justice;
- v. Kenya National Commission For UNESCO;
- vi. Competence Building Society Of Early Childhood Education;
- vii. Early Childhood Development Network For Kenya; and
- viii. The County Executive of Nairobi.

The Committee held a total of six (6) meetings in the precincts of Nairobi city County Assembly to consider the Bill. This included a meeting held with the officers from the **Education, Youth, Sports, Culture and Social Services Sector** and the sponsor of the Bill **Hon. Patrick Ngaruiya Chege**. The stakeholders who presented memoranda were agreeable in principle with the Bill although they proposed amendments to various clauses.

**Mr. Speaker Sir;**

The Committee thanks the Offices of the Speaker and the Clerk of the County Assembly for the support and services extended to Members of the Committee while considering the Bill. I am grateful to the Members of the Committee whose support and commitment enabled the Committee to accomplish this task. The Committee also extends its appreciations to all stakeholders who submitted their views on the Bill. Special thanks to the County Executive for their views and the Secretariat for the technical support provided.

On behalf of the Committee, I now have the honor and pleasure to present this report of the Committee on the consideration of the **Nairobi City County Childcare Facilities Bill, 2017** for adoption.

Thank You.

SIGNED .....



**Hon. David Kitavi, MCA**  
**(CHAIRMAN)**

DATE.....

20<sup>th</sup> June 2017

## **2.0 COMMITTEE CONSIDERATION OF THE NAIROBI CITY COUNTY CHILDCARE FACILITIES BILL 2017**

**Mr. Speaker Sir,**

While examining the Bill, the Committee noted that the principal object is to provide for the registration, licensing and inspection of child care facilities in the county and for connected purposes.

### **COMMITTEE OBSERVATION**

**Mr. Speaker Sir,** the Committee observed the following while considering the Memorandum of Objects and Reasons of the Bill;-

**That-**

- i. The principal object and purpose of this Act is to provide a legal framework for registration, licensing and inspection of child care facilities to protect the well-being of children while away from their parents allowing parents and guardians of children who cannot take care of them because of work or other reasons to leave them in a safe, stimulating and learning environment;



- ii. The Bill vests in the department responsible for education the duty of licensing child care facilities and ensuring that they conduct their business in a safe environment and maintain the premises in a state that is safe for children;
- iii. The Bill requires persons intending to set up child care facilities to meet some minimum standards with regard to status and hygiene of premises, number of staff to children ratio and qualification of staff at the facility among others;
- iv. The Bill further imposes obligations on the child care facilities to keep and maintain up to date records of children at the facility specifically, immunization records, emergency contacts, daily attendance registers, to provide healthy food and in adequate proportions to the children, to sanitize the playing areas and facilities and ensure any playing equipment is of right size and free of any hazards;
- v. The Bill also grants parents of children at the facilities certain rights among them right to know the kind of punishment the children may be subjected to at the facility, right to enter the premises any time while their children are there and right to be shown the license of the premises; and
- vi. This Bill shall not result in expenditure of public funds.

**Mr. Speaker Sir,**

The Bill is composed of five parts and twenty four clauses.

**PART 1 (CLAUSES 1-3) - PRELIMINARY**

**Clause 1** sets out the short title of the Act as, the Nairobi City County childcare facilities Act, 2017.

**Clause 2** provides interpretation of terms used in the Bill.

**Clause 3** sets the objects and purpose of the Act which is to provide a legal framework for registration, licensing and inspection of childcare facilities.

**PART 11 (CLAUSES 4 & 5) FUNCTIONS AND POWERS OF THE DEPARTMENT.**

**Clause 4** sets the functions of the Department including;

- a) Regulation and licensing of childcare facilities;
- b) Developing and implementing of policy on child care facilities; and
- c) Receiving and investigating complaints on child care facilities.

**Clause 5** sets out the powers of the department including;

- a) Entry and inspection of childcare facilities;
- b) Issuance and suspension of licenses; and
- c) Demanding corrective action.

**PART 111- (CLAUSES 6-15) REGISTRATION, LICENSING AND INSPECTION OF CHILDCARE FACILITIES**

**Clause 6** prohibits operation of unlicensed childcare facility within the county.

**Clause 7** makes provision on licensing of childcare facilities by the Department.

**Clause 8** sets out the procedure for licensing and the requisite documents including;

- a) A sketch diagram of the facility;
- b) A sketch of the outdoor play area; and
- c) A schedule of proposed daily activities.

**Clause 9** empowers the Department to issue licenses and to set the fees payable. It also mandates the Department to, at least thirty day prior to grant of licence, give notice of the proposed grant in the county gazette and to keep an updated register of all issued licenses. It also mandates the childcare provider to request a criminal review of any person within ten days of their employment.

**Clause 10** makes provision on renewal of a license including demanding that an application for renewal be made at least thirty days prior to expiry of licence.



**Clause 11** provides that licenses shall be issued subject to such conditions as may be determined by the Department.

**Clause 12** empowers the Department to revoke, alter or suspend licenses.

**Clause 13** demand surrender to the Department of a revoked license.

**Clause 14** permits an applicant aggrieved by a decision of the Department to appeal to the CEC member.

**Clause 15** demands the publication of any order revoking a license.

**PART IV- (CLAUSES 16-21) MANAGEMENT OF CHILDCARE FACILITIES**

**Clause 16** mandates the childcare facility to observe conditions including;

- a) Keeping adequate records of the children at the facility;
- b) If providing transport, meet all motor-vehicle related laws; and
- c) Ensure health of children by sanitising area and equipment used by children.

**Clause 17** proscribes the licensing of a childcare facility unless;

- a) It has teachers who are at least 18 years old and with early childhood education training from recognised institutions;
- b) All employed staff are at least 18 years old and those below this age are supervised by staff above 21 years of age; and
- c) At least one member of staff is trained in first aid by a recognized institution.

**Clause 18** grants rights to parents including;

- a) Right of entry when their child is present therein;
- b) Right to see the facility's licence; and
- c) Right to know how their children will be disciplined.

**Clause 19** empowers the County Public Service Board upon request of the Department to deploy a public officer working in the county to inspect a childcare facility.

**Clause 20** empowers the inspection officer to among others;

- a) Inspect childcare facilities;
- b) Make periodic inspection; and
- c) Make recommendations to the Department.

**Clause 21** empowers the inspector to enter and carry out investigation without a warrant but such officer is to produce a valid identification document prior to entry and is to conduct himself in a civil manner.

**PART V- (CLAUSES 22-24) MISCELLANEOUS PROVISIONS**

**Clause 22** protects public officers carrying out a function under the Act in good faith from liability.

**Clause 23** sets offences and penalties.

**Clause 24** empowers the CEC member to make regulations for the better carrying out of the provisions of this Act.

**Mr. Speaker, Sir,**

The Committee proposed amendments to the Bill in the **Long title, Clauses 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23** and **24**. The Committee **agreed to clauses 6** and **22**. Attached herein is the **Schedule of Amendments** to the **Nairobi City County Childcare Facilities Bill 2017** and the **matrix** of the proposed amendments with justifications by the stakeholders.

The amendments are aimed at ensuring that all aspects of promotion and protection of Childcare Facilities in the County are covered, execution of the Bill is easily attained and the concerns of the stakeholders are catered for.

**RECOMMENDATIONS**

**Mr. Speaker Sir,**

The Committee recommends the Assembly to:-

- i. Adopt this report of the Committee together with attached schedule of amendments; and
- ii. Pass the Nairobi City County Childcare Facilities Bill, 2017.



**COMMITTEE STAGE AMENDMENTS TO THE NAIROBI CITY COUNTY  
CHILDCARE FACILITIES BILL 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-

**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 **"assessor"** 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:

- (ii) In sub clause 1 by deleting the word **“Department”** wherever it appears and substituting therefor the word **“Sector”**
- (i) In sub clause 3 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (ii) 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”**
- (iii) 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”**
- (iv) 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”**

- (v) In sub clause 9 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (vi) 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 **“assessors”**

## **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 2-

**“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:

- (iii) 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"**
- (i) 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-

**(16) "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 **“assessor”**



## 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 **"assessor"** 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;

- (iv) In sub clause (1) by deleting the word **"inspector"** and substituting therefor the word **"assessor"** 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"**
- (iii) By deleting sub clause 2 entirely and substituting therefor the following new sub clause-

(2) Every assessor 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-

<b>General penalty</b>	<b>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.</b>
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### **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;**





**The following are Committee members who appended their signatures in support of the report on the Consideration of the Nairobi City County Childcare Facilities Bill 2017;-**

1. Hon. David Kitavi, MCA
2. Hon. Kingsley Odida, MCA
3. Hon. Fredrick Obenge, MCA
4. Hon. Elias Otieno Okumu, MCA
5. Hon. Alexina Mudi, MCA
6. Hon. Florence Athembo, MCA
7. Hon. Ngaruiya Chege, MCA
8. Hon. Jack Ngare, MCA
9. Hon. Isaac N. Ngige, MCA
10. Hon. Njoroge G. Maina, MCA
11. Hon. Ruth Njeri, MCA
12. Hon. Mercy Kariuki, MCA
13. Hon. Jane Muasya, MCA
14. Hon. Elizabeth Sang, MCA
15. Hon. Karen Wanjiku, MCA
16. Hon. Imelda wanjala, MCA
17. Hon. Beatrice Kwamboka, MCA

  
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MATRIX OF STAKEHOLDER COMMENTS ON THE NAIROBI COUNTY CHILDCARE FACILITIES BILL, 2017 AND JUSTIFICATION

CLAUSE	SUBJECT MATTER	PROPOSED AMENDMENT	RATIONALE	COMMITTEE'S COMMENTS
<u>Long Title</u>				
1. Nairobi City County Social Services Department	Long Title	- delete the expression "inspection and replace thereof the expression "assessment"		Agreed. To amend everywhere in the bill.
<u>Clause 1</u>				
1. Nairobi City County Social Services Department	Short Title	-insert the phrase "County" immediately before the phrase "Executive Committee Member"		agreed
<u>Clause 2</u>				
1. ECD Network	Interpretation	1. Define child as any person below the age of 18 years	1. to align to the Children's Act and Constitution.	The scope of the bill is to cover children of a tender age and the purpose was not to capture all children below the age of 18 years and is to cover centres like day care centres. To therefore specify that the 'age of 6 years' and below is for the purposes of this act.

		<p>2. Bill to cover other childcare facilities such as rescue centers that need funding from county governments and childcare facilities that are run from people's homes</p>	<p>2. definition not comprehensive.</p>	<p>Bill main focus is facilities like day care centres</p>
<p>2. Kenya National Commission for UNESCO</p>		<p>1. at the definition of "child care" replace the word "may" with "shall".</p> <p>2. at the definition of "facility" replace the phrase "any place" with the phrase "designated place".</p> <p>3. add new phrase "protection" means the care provider shall take all necessary measures to ensure that the rights of the children under their care are</p>	<p>1. the word "may" is discretionary.</p> <p>2. description is general meaning it can be set anywhere.</p>	<p>AGREED</p> <p>AGREED</p> <p>AGREED</p>

3. Kenya Christian Professionals Forum (KCPF)		not violated. 1. the word person and (s) should be spaced appropriately. 2. amend the definition of the word "Applicant" to include artificial persons, associations and groups.	1. Grammatical error. 2. definition not conclusive.	AGREED  Agreed, to add the words "legal associations, groups and organizations" as not only individuals should be allowed to apply to registration. The word artificial person will not amount to simple English.
4. Nairobi City County Social Services Department		3. in the definition of "Executive Committee Member" capitalize the first letter of the words "County" and "Sports". 1. amend the definition of "applicant" by inserting the phrase "or organization" after the phrase "individual" 2. delete the definition of the	3. Grammatical error.	AGREED  Agreed, to add the words "legal associations, groups and organizations" as not only individuals should be allowed to apply to registration. The amendment be deemed to be a consequential amendment  Disagreed as the scope of the bill is to cover children of a tender age and the



		<p>word "child" and replace it with the following new definition "child means any male or female, aged below 18 years, at the time of enrollment in any childcare facility or educational institution."</p> <p>3. amend the definition of childcare provider by inserting the phrase "or institutions" immediately after the phrase "person(s)"</p> <p>4. Delete the phrase "County Education Board" and replace thereof "sectoral committee responsible for children affairs"</p> <p>5. delete the phrase</p>	<p>Definition is not clear</p>	<p>purpose was not to capture all children below the age of 18 years and is to cover centres like day care centres. To therefore specify that the 'age of 6 years' and below is for the purposes of this act.</p> <p>Insert the words "associations, organizations or groups" after the word person(s)</p> <p>Disagreed. The county education board is mandated by the basic education act to oversee, in consultation with the county govt, the operation and management of youth polytechnics, preprimary education including childhood care and education programs in the county</p>
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		<p>“department” and replace therewith “sector”</p> <p>6. a) at the definition of “Executive Committee Member”, add the phrase “County” before the phrase “Executive Committee Member”</p> <p>b) CECM title to be in full i.e. Education, Children, Youth Affairs and Sports.</p> <p>7. amend to remove the restrictive age bracket.</p> <p>8. insert a new definition as follows ‘child minder’ means someone who takes care of the children while in the child care facilities”</p>	<p>Agreed</p> <p>Agreed</p> <p>Agreed</p> <p>To stay as the restrictive age bracket is for the purposes of this Act”</p> <p>Instead, we can replace with the word “caregiver” as its more easily understood.</p>
		<p>Definition of facility should not have a restrictive age bracket</p>	

		<p>9. at the definition of the term "inspector" delete the phrase "inspector" and replace therewith the phrase "quality assurance and standards officer"</p> <p>10. insert a new definition "caregiver is any person engaged to provide protection and guardianship in a childcare facility".</p>		<p>Can replace with the word assessor. To make changes in the whole bill. the definition relates to clause 19 and not clause 14.</p> <p>Consider redrafting, "caregiver is any person engaged to take care of the children while in the child care facility"</p>
<p>5. Kenya National Commission on Human Rights KNHCR</p>		<p>1. Amend the definition of "child" to specify that it refers to a child of tender years who for the purpose of the Bill is a child below the age of 6 years.</p> <p>2. Amend the definition of child care to read "Child care means ...living quarters</p>	<p>1. definition of child is contrary to the Constitution and Children's Act</p> <p>2. this will be in line with the best interest of the child principle</p> <p>3. Definition is limiting.</p>	<p>Agreed. To amend so as to specify that it is for the purposes of this act.</p> <p>Agreed</p>



		which includes child welfare, protection, supervision and training of a child.	4. Definition is limiting.	Agreed
		3. amend the definition of "child care provider" to include their agents or representatives.	5. concurrent jurisdiction between national and county government.	Disagreed as the main implementer of the bill is the CEC responsible for children matters within the executive committee
		4. amend the definition of "department" to include the Director of children's services	6. Definition is narrow	Should actually be section 19, not 20 or 14
		5. amend the definition of inspector and also make reference to section 20 not 14		Not necessary
		6. amend definition of "related" by replacing it with the term "relative" and drawing the definition from the		

		Law of succession Act.		
OXFAM		1. amend the definition of "childcare" by defining acceptable locations for provision of childcare services	1. there is need to strengthen the definition.	To strengthen the definition so as to amend by deleting the word "in a location" and replacing with "a designated place".
		2. provide a definition for the term "inspector"	2. it has not been defined	Not necessary, clear description in section 19
Clause 3				
1. Kenya National Commission for UNESCO	Objects and purpose of the Act	1. insert the words "protection of a child or children under the care of a child care facility in line with the Children's Act" immediately before the word "registration".  2. 3(b) insert the words "in line with the Occupational Safety and Health Act No 15 of 2007"	1. the clause does not include protection of children under the care of the child care providers.  2. To give a standard for reference.	Agreed
				Agreed

		immediately after the word "so established"	-the word stimulating has not been defined and is therefore ambiguous.	Stimulating means energizing. The word stays but we can add the word "child friendly".
2. Kenya Christian Professionals Forum (KCPF)		-delete the word "stimulating" appearing immediately after the word "safe" and replace therewith the phrase "Child Friendly".		
3. Nairobi City County Social Services Department		1. ....in a safe and child friendly environment. 2. delete the phrase "inspection" appearing immediately after the phrase "licensing and" and replace therewith the phrase "assessment"		Agreed. See proposal above.  Agreed. Replace the word inspection everywhere in the bill and instead, use the word assessment
4. Kenya National Commission on Human Rights KNHCR		-Delete 3(a) and replace therewith "ensure that every person's intending to establish or operating a childcare facility does so in a structured manner in line with this Act	-The sentence is ambiguous.	Agreed.



		and any other written law and must comply with the best interest of the child"		
5. OXFAM		-3(b) include equipment, furniture, sleeping bay as some of the basic minimum standards required for a facility to operate.		Agreed to the extent of the furniture and sleeping bay. Equipment is not clear.
Nairobi City Social Services Department		- delete the expression "inspection and replace thereof the expression "assessment"		agreed
Clause 4				
1. ECD Network	Functions of the Department	1. Include inspection of quality standards and scope of work for inspectors. 2. Clarify 4(c) on what standards are meant. 3. Clarify on whether 4(e)	1. Inspection is a key function. 2. Need for clarity. 3. needs to be addressed in the Bill.	Agreed, however, the word assessment should be used.  Means also "standards for the management of childcare facilities"  Not clear

		<p>safeguards children under threes.</p> <p>4. Include a preamble explaining the statement and “develop and implement policies to implement provisions of this law”.</p> <p>5. Distinguish between ECDE and child care facilities and clarify which facilities are being targeted by this legislation.</p>	<p>4. make the reviewer feel there will be further policy development to guide law implementation.</p> <p>5. curricular development is a national government function and there is already in place a curriculum for ECDEs by KICD and other curricula in private centres.</p>	<p>Policy comes before the legislation</p> <p>This bill should target childcare facilities and NOT ECD. Amend to read “ensuring that the curriculum developed for ECDE ‘s by the CEB is implemented.</p> <p>Objects and purpose of the Act is clear</p>
2. Kenya Christian Professionals Forum (KCPF)		<p>-4(h) the person who is the equivalent of the Ministry of Education’s Quality assurance Officer be the one to decide “activities that may</p>	<p>-the procedure or guidelines for determining “activities that may be necessary” is not defined.</p>	<p>Disagreed. Childcare facilities still a function of the county govt. however we can add in consultation with the county education board after the word “legislation”</p>

		be necessary" in consultation with the County Education Board.		
3. Nairobi City County Social Services		<p>1. 4(e) delete the phrase "county Education Board appearing after the phrase "resolutions of the" and replace therewith "sectoral committee dealing with children".</p> <p>2. in paragraph 4(f) delete the phrase "the County Education Board" and replacing therewith the phrase relevant stakeholders".</p> <p>3. 4(g) delete the phrase "County Education Board" and replace therewith CECM.</p>		<p>CEB is a creation of national legislation and cannot be changed. Delete 'basic education of children and replace with "early childhood care"</p> <p>Disagreed</p>
5. OXFAM		1. insert a new function as follows "to sensitize the general public on		<p>Add "and the county executive committee member" immediately after the word "board"</p> <p>Agreed</p>



			the Act.  2.expand membership of the County Education Board with a representative of the ECD parents.			Disagreed. This is a board emanating from national legislation
<u>Clause 5</u> 1. Kenya Christian Professionals Forum (KCPF)	Powers of the department		1. 5(a) the service providers be provided with the recourse to ascertain the authenticity of the officer concerned and the purpose of the visit.  2. 5(b) a) the word "refuse" appearing before the phrase "to issue" be deleted and replaced therewith the phrase "decline".  b) grounds for declining to issue a	1. there is no protection of service providers from rogue officers  2. it fails to capture the notification of the service providers and grounds for the decline or suspension of license.	Draft to ensure that officers identify themselves to the service providers and the requirement that an officer has to fill in a report with the department on the findings and recommendations in the course of his visit.  Agreed	Agreed. Cec to issue regulations relating to licensing

		<p>license be given to the applicant in writing.</p> <p>c) where there is suspension or revocation of license, the service provider to be provided with a written notice and the grounds for the suspension or revocation within 14 working days.</p> <p>d) working days should be defined.</p>		<p>Draft so as to include the issue of notice upon revocation.</p> <p>To also define what a working day is in the interpretation section.</p>
3. Kenya National Commission on Human Rights KNHCR		-add a new part that will allow exercise of the power of entry for inspection officers with or without notice.		<p>Draft to reflect the same. Either in clause 20 or 21</p>
<u>Clause 6</u>				
1. ECD Network	Licensing of childcare facilities	-there is need to recognize that day/baby cares are part of the informal sector.	Strict rules will lead to their ceasing to exist.	disagreed
2. Nairobi City County Social Services		1. 6(a) insert the phrase "or institute" after the word		To define the word person to mean either an individual, organization association or group.

Department		"person"		
		2. 6(b) insert the phrase "or institute" after the word "person"		
<u>Clause 7</u>				
1. Kenya Christian Professionals Forum (KCPF)	Application for a license	-7(2)(b) grounds or document carrying the grounds for refusal to be listed	It is ambiguous on the grounds for refusal or the document or legislation that will be made reference to.	Agreed. Cec to issue regulations relating to licensing
2. Nairobi City County Social Services Department		2. insert a new paragraph 7(2)(d) "the license period will be 3 years renewable"		Disagreed. License is annual
3. Kenya National Commission on Human Rights KNHCR		- The prescribed forms to be attached as a schedule	- the prescribed forms are missing	Agreed. Cec to issue regulations relating to licensing(include forms)
<u>Clause 8</u>				
1. Kenya National Commission for UNESCO	Licensing process	1. delete paragraph 8(2)(a) and replace thereof with the following new clause "A sketch or diagram of the home showing the arrangements and	1. this is in line with the Occupational Safety and Health Act and the Children's Act.	Agreed



		<p>measurements of the rooms including the location of separate toilets for male and female, hand washing facilities, doors and the windows.</p> <p>2. 8(2)(c) specify on operating hours with guidelines on day time and night time operations for the safety and security of the children.</p> <p>3. delete paragraph 8(2)(d) and replace thereof with "a declaration to adhere to discipline and guidance guidelines by the relevant department."</p>	<p>2. the clause is too general.</p> <p>3. the clause is too general and provides loopholes for possible violations.</p>	<p>Agreed. To be defined in 'working hours'</p> <p>agreed</p>
2. Nairobi City County Social Services Department		<p>1. 8(2)(a) delete the phrase "home" appearing immediately after the phrase "diagram of the" and replace</p>	<p>1. for inclusivity.</p>	<p>Agreed</p>

		therewith the phrase "facility".			Agreed
		2. 8(2)(b) insert the phrase "and child friendly as per specified standards" after the phrase "fenced"			Agreed
		3. 8(2)(c) insert the phrase "age appropriate" immediately after the phrase "proposed".			Agreed
		4. 8(2)(d) a) insert the phrase "inclusive of the Child Protection Policy" immediately after the phrase "guidance policies"			Disagreed
		b) sworn affidavit under commissioner of oaths to protect and implement child protection policy.			
		5. insert a new			

		<p>paragraph 8(2)(g) “have clearance from both EACC and DCI”.</p> <p>6. insert a new paragraph 8(2)(h) “provide working day contact numbers”</p> <p>7. insert a new paragraph 8(2)(i) “have a clearance report from the public health department”</p>	Agreed
3. Kenya National Commission on Human Rights KNHCR		<ul style="list-style-type: none"> <li>- Develop the parameters that will also form part of the inspection practice prior to licensing of any premises.</li> <li>- Clause fails to recognize the importance of compliance with the best interests of the child.</li> </ul>	Cec to develop the same
5. OXFAM		<ul style="list-style-type: none"> <li>- Include as requirement for compliance; fire and safety and public health reports.</li> </ul>	Agreed. To be drafted
<u>Clause 9</u>			
1. ECD Network	Issuance of license	<p>1. Specify who should run a</p> <p>1. To avoid cases of child trafficking.</p>	CEC to develop



		childcare facility 2. need for additional back-ground checks in 9(10).	2. A criminal record review is not sufficient.	drafted	
2. Kenya National Commission for UNESCO		1. extend the time period allowed by sub-clause 9(4) to 40 or 60 days to allow sufficient time for lodging of objections.	1. current time frames are not sufficient.	Amend to 60 days.	
		2. extend the time period allowed by paragraph 9(5)(c) to 21 or 30 days to allow sufficient time for lodging of objections.	2. current time frame is not sufficient.	Amend to 21 days	
		3. 9(10) delete the phrase "within ten days of" appearing immediately after the word "person" and replace therewith the phrase "prior to".	3. vetting of employees should be carried out prior to employment.	agreed	
3. Kenya Christian		1. 9(1) there be a provision for the	1. there is ambiguity on the issue of lawful conditions to	Draft to include stakeholder's views	

Professionals Forum (KCPF)		involvement of stakeholders and the department.	be determined by the department.	To be drafted in the end of the part.
4. Kenya National Commission on Human Rights KNHCR		<p>2. 9(4) notice to be done in consultation with the County Ward Administrators and the local coordinator of Government (chief)</p> <p>1. 9(1) specify the duration upon which a license will be issued.</p> <p>2. 9(3) clarify in relation to the fees whether there is a schedule or the same will be separately gazetted</p> <p>3. 9(6) specify the duration</p>	<p>1. duration is not given.</p> <p>2. provision is hanging.</p> <p>3. it is ambiguous.</p>	<p>Within fourteen days</p> <p>To be included in the last clause of the bill.</p>
5. OXFAM		1. 9(4) the department should deploy other means of publicizing the notice.		Drafted, within fourteen days

		<p>2. 9(10) criminal records of potential employees should be ascertained with the Directorate of Criminal Investigation prior to employment.</p> <p>3. licensing to consider facilities operating on a 24 hours and 7days a week basis.</p>		Already covered drafted	
Clause 10				Facilities to operate 5 days a week 8 am to 5pm	
1. Kenya Christian Professionals Forum (KCPF)	Renewal of license	<p>1. 10(4) delete the words "who on compliance with" appearing immediately after the words "inspectors" and replace thereof the words "in compliance to the".</p>	1. Grammatical error.	Agreed .delete the words "who on" and replace with the word "in"	
2. Kenya National Commission on Human Rights KNHCR		<p>1. 10(2) amend to specify the amount payable as late application fees</p>	<p>1. to avoid room for abuse</p> <p>2.the prescribed form is</p>	Will be prescribed in the regulations.	



		2. 10(3) the prescribed forms for application for renewal of license should be attached as a schedule.	missing	Will be prescribed in the regulations
Clause 11				
1. Kenya Christian Professionals Forum (KCPF)	Conditions of a license	<ul style="list-style-type: none"> <li>- 11(2) amend so that;</li> <li>a) the process of varying conditions or imposing conditions or further conditions be in consultation with the County Education Board and other stakeholders.</li> <li>b) there be a notice done within 30 working days</li> <li>c) the word "reason" be changed to "grounds"</li> </ul>	<ul style="list-style-type: none"> <li>- it fails to capture the consultative process and due notice when outlining issues of varying the conditions of the license.</li> </ul>	<p>To draft the same</p> <p>Within 14 days</p> <p>Not clear</p>
2. Kenya National Commission on Human Rights KNHCR		1. specify conditions that may be varied or added.	1. provision is ambiguous	Cec to prescribe
Clause 12				

		<p>coordinator of government.</p> <p>2. 13(2)</p> <p>a) if the service provider chooses to present their license be required to do so after notice of 7 working days to the clients, employees and stakeholders of the childcare facilities.</p> <p>b) reasons for forfeiture of license to be given in writing.</p>		Covered in newly amended 13(1)
Clause 14				
1. Kenya Christian Professionals Forum (KCPF)	Appeals by applicants	<p>a) 14 (2) insert the words "through the relevant director" immediately after the word "shall"</p>	<p>a) does not provide specifics in the handling of matters by the Executive Committee member.</p>	<p>disagreed</p> <p>However, to redraft 14(1) so as to give a timeline within which an aggrieved party may appeal. To read as follows-</p> <p>"A person aggrieved by the decision of the Department under this Part may appeal, within fourteen days from the date of being notified of the decision, in writing, to the Executive Committee"</p>

1. Kenya National Commission on Human Rights KNHCR	Revocation, alteration or suspension of a license	-12(1) amend to include how the applicant will be informed of revocation as well as the need for written reasons	-To be in line with the principles of fair administrative justice.	Agreed
Clause 13				
1. Kenya Christian Professionals Forum (KCPF)	Surrender of license	1. 13(1) amend; a) so that service provider ceases operations immediately and surrenders the license within 7 working days  b) that the notice of the same be given to the public through the administrator and the ward and local	1. the use of the word "immediate" is ambiguous.  2. does not adequately protect other stakeholders involved in childcare facilities.	13(1) a) Agreed. Amend to read "the holder of a license which is revoked shall immediately surrender it to the department within 7 days and shall cease operations immediately as per the amended sub clause 1.  All notices shall be communicated to the license holders in writing as captured by amended clause 12(1)  13(2) to be deleted in view of the amendment in 13(1).



					Member”
			b) provide an option for appealing to court	b) does not provide a higher body for appeal in case of dissatisfaction	Agreed. To add a sub clause- “A party aggrieved by the decision of the Executive Committee Member may appeal to the High Court within thirty days”
2. Kenya Commission on Human Rights KNHCR			-amend to provide for an appeals board or committee	-it is subject to abuse.	Not necessary as a person aggrieved by the decision of the CEC member may appeal to court.
1. Kenya Christian Professionals Forum (KCPF)	Publication of order		-the clause be deleted and replaced with the new clause; “where a revocation order has been made under section 11 of this Act directing that a license be revoked the department shall inform the public of that order in a civic manner through the ward administrator	-it is not clear on the notification to the public.	Ward managers are responsible for the coordination, management and supervision of the general administrative functions in the sub-county, ward and village respectively. These are critical functions in ensuring that the county discharges its functions. a new clause 16 be inserted as follows-  “The Department may issue the revocation, alteration or suspension orders or notices under this through the ward administrator and 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.”

		and the local coordinator of government who shall issue a public notice in writing through the local language and Kiswahili to the locality where the care facility is located."		
2. Kenya National Commission on Human Rights KNHCR		-specify how communication will be done	-need for clarity	Agreed. It has been specified in the various amendments in the part
Clause 16				
1. ECD Network	Obligations of the child care facility	1. At 16(b) include prescribed time limits for children's travel according to the Basic Education Children Act. 2. 16(c) increase measures for keeping a healthy environment for children. 3. 16(d) amend to; a) allow parents to	1. Should be between 6 am and 6pm.  2. a healthy environment requires more than sanitizing equipment.  3. parents prefer to send food and the guidelines on quality	Agreed. Paragraph c to be amended.   Agreed. Paragraph (c) to be amended   Agreed but to be inserted in clause 18

		<p>send food to children,</p> <p>b) have onus to be on parents to check quantity of food and</p> <p>c) include quality/diversity/hygiene of the food.</p> <p>4. 16(e) refer to the Basic Education Act and the Children's Act.</p> <p>5. amend;</p> <p>a) in reference to Article 53 of the Constitution to be clear on safeguarding of children.</p> <p>b) to include a further obligation on childcare facilities to provide safe stimulating play materials for both indoor and outdoor activities.</p>	<p>are necessary</p> <p>4. they have guidelines on outdoor and indoor space for children including safety guidelines.</p> <p>5. a) children of tender years are vulnerable to abuse.</p> <p>b) to enhance children's cognitive, social, emotional and physical development.</p>	<p>Agreed</p> <p>Agreed</p> <p>Agreed</p>
2. Kenya National Commission for UNESCO		<p>-amend by deleting paragraph 16(d) and replacing thereof the paragraph</p>	<p>-the child care provider must provide a balance diet and the relevant department should prescribe the</p>	<p>Agreed to redraft paragraph (d) and also place the obligation on the CEC to prescribe the nutritional provisions in clause 24</p>



		<p>“offer balanced diet to the children at least every four hours in the prescribed portions”</p>	<p>nutritional portions for food provision.</p>	
<p>3. Kenya Christian Professionals Forum (KCPF)</p>		<p>a) 16(c) delete the phrase “an” appearing after the phrase “areas” and replace therewith the phrase “and”.</p> <p>b) 16(d) specify a balanced diet</p> <p>c) delete paragraph 16(e) and replace therewith “outdoor play space shall be fenced with the outdoor equipment taking cognizance of child size; the play space shall also be free from hazards to the children.</p>	<p>a) Grammatical error.</p> <p>b) no provision of quality food for children</p> <p>c) not clearly worded.</p>	<p>Agreed</p> <p>Balance diet provision to be considered in the amendments.</p>
<p>4. Nairobi City County Social Services Department</p>		<p>1. 16(a) include case records.</p> <p>3. delete paragraph 16(d) and replace therewith the</p>		<p>Case records not clear</p> <p>Already considered above</p>

		following new paragraph "Offer adequate balanced diet, in line with the laid down regulations"			
5. Kenya National Commission on Human Rights KNHCR		<p>1. amend to borrow from section 4 of the Children's Act</p> <p>2. Amend to include the need to uphold the right to privacy for the children immunization records access by authorized persons</p>	<p>1. not comprehensive</p> <p>2. might create room for abuse</p>	<p>Disregard for lack of clarity</p> <p>Agreed. Paragraph (a) to be amended</p>	
6. OXFAM		<p>1. insert a new paragraph as follows; "provide sanitary needs for the children such as potty, diapers and tissue paper".</p> <p>2. additional records for the children should include Birth certificates, allergy</p>		<p>Agreed. Paragraph c to be amended.</p> <p>Agreed.</p>	

		records, health/medical records and emergency contacts.  3. facilities should be disability friendly. Include a subsection for childcare facilities to reserve facilities for children with special learning needs.		Agreed. A new sub clause added as follows-  "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."
<u>Clause 17</u>				
1. ECD Network	Staff of childcare facilities	1. 17(a) amend; a) to provide qualifications for caregivers working in informal urban settlements.  b) to outline qualification for caregivers of children under three years e.g be over 18 years and with a certificate in caregiving form a recognized institution.	a) the qualifications outlined favour those teaching children of ages 4-5.  b) to give room for caregivers to be trained.  c) training institutions will mushroom upon passing of	Agreed. Regulations to address the same.  Also amend by deleting the word teachers and replacing with caregivers.  Cec to give regulations on this  Not a mandate of the bill



		<p>c) to create guidelines on training institutions for caregivers for children under three years.</p> <p>d) to give guidelines on maintaining an appropriate staff to child ratio depending on age.</p> <p>e) childcare workers should have a certificate of good conduct.</p> <p>2. 17(b) Persons under 18 should not work with children.</p> <p>3. 17(c) all staff members should be well versed in first aid</p>	<p>this Bill.</p> <p>e) to avoid people with a criminal history or child offenders working within such institutions.</p> <p>-children are prone to accidents</p>	<p>Agreed. CEC to provide regulations.</p> <p>Agreed. Amend 17(b)</p> <p>Agreed. To delete "below 18 years of age" in 17(b)</p> <p>Amend 17( c) to read,          "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."</p>
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2. Nairobi City County Social Services Department		ii) insert the phrase “and any other relevant training” after the phrase “institution”		Amended as above
		2. delete paragraph 17(b) and replace therewith the following new paragraph “all staff engaged should be over 18 years of age, and interns who are below 18 years are working under close supervision of staff above 25 years”.		Disagreed. No persons below 18 years should be working in the facilities
		3. insert a new paragraph 17(d) “all staff must have food handlers certificate”.		The institution shall be cleared by the public health department as amended in clause 8
3. Kenya National Commission on Human Rights KNHCR		-amend to be in line with the Sexual Offences Act	-need to forbid any person who has been charged with a sexual offence or who is a sexual offender from working with children.	Agreed. To insert a new clause to that effect.
Clause 18				

1. ECD Network	Rights of parents	<p>1. Also include responsibilities of parents.</p> <p>2. 18(c) amend to give parents right to;</p> <p>a) other center management guidelines.</p> <p>b) know the qualification levels of the caregivers.</p>	Parents need to work in collaboration with caregivers.	Disagreed as this bill targets the child care facilities and staff
2. Nairobi City County Social Services Department		<p>1. insert the phrase "or guardian" immediately after the phrase "parent"</p> <p>2. delete the phrase "accruing to them" and replace therewith the phrase from the centre"</p> <p>3. 18(c)</p> <p>a) Right to know the existing policies pertaining to the child and copies provided.</p> <p>b) delete the phrases "disciplined" and</p>		<p>Agreed</p> <p>Agreed but only to the extent of deleting the phrase "accruing to them"</p> <p>Agreed</p> <p>Disagreed.</p>



		“discipline” and replace therewith “corrected” and “correction” respectively.		
Clause 19				
1. Nairobi City County Social Services Department	Appointment of inspectors	Amend 19(1); a) delete the phrase “County Public Service Board” and replace therewith the phrase county “chief officer”. b) by deleting the phrase “board” and replacing therewith the phrase “management” c) delete the phrase “inspectors” and replace thereof the phrase “quality assurance and standards officers” d) delete the phrase “inspect” and replace therewith the phrase “assess”		<p>Disagreed. Deployment should be done by the CEC. Redraft as follows-</p> <p>“The Executive Committee Member may upon request of the Department, deploy a public officer working in the sector to assess a childcare facility.”</p> <p>disagreed</p> <p>Agreed</p> <p>Agreed, however to call them assessors.re draft to ensure that the assessor specifically comes from the sector relating to children. Also amend marginal notes</p> <p>agreed</p>

2. Kenya National Commission on Human Rights KNHCR		<p>1. Define the term "parent"</p> <p>2. 19(2) delete the phrase "public officer working in the county" appearing after the phrase "deploy a" and replace thereof the phrase "a competent person" or the phrase "authorized person"</p>	<p>1. it has not been defined.</p> <p>2. the term "public officer working in the county" is ambiguous.</p>	<p>Agreed</p> <p>Agreed. However, to be redrafted as follows-</p> <p>"The Executive Committee Member may upon request of the Department, deploy a public officer working in the sector to assess a childcare facility."</p>
<p><u>Clause 20</u></p> <p>1. ECD Network</p>	<p>Inspection of childcare facilities</p>	<p>1. stipulate whether childcare facility not meeting standards will be given a warning period to comply.</p> <p>2. 20(b) there should be developed a policy to guide the statements</p>	<p>2. the standards being inspected seem vague.</p>	<p>Disagreed as a childcare facility that does not comply cannot be operating.</p> <p>No policy is required. To build on sec 20.</p>

3. Kenya National Commission on Human Rights KNHCR		- amend to realign the cross reference.	-Reference to section 15 is misleading	Agreed, cross reference be made to clause 19
4. OXFAM		1. 20(1)(b) inspection to be done on a quarterly basis with provision for parents to make provide feedback on the quality of facilities. 2. facilities to ensure that all the parents/guardians/caretakers have identification cards used to collect the children from the facilities.		Agreed  Agreed. To be included in clause 21
Clause 21				
1. Nairobi City County Social Services Department	Power to enter childcare facility	-21(1) a) delete the phrase "inspector" and replace therewith the phrase "quality assurance and standards officer".		Agreed. Amending with the word assessor.



Clause 23						
1. Kenya National Commission for UNESCO	Offences		-harmonize the penalties	-need for consistency	Agreed. Provide a general penalty	
2. Kenya Christian Professionals Forum (KCPF)			-Harmonize with clauses 6(1) and (2)	-there is a contradiction	Agreed. Provide a general penalty	
Clause 24						
1. Kenya Christian Professionals Forum (KCPF)	Regulations		-Regulations be made subject to consultations with the County Education Board and other stakeholders in the field of education.	-it is not cognizant of due process.	Agreed. The Basic Education Act empowers the County education board to oversee the operation and management of early childhood care. Regulations be made in consultation with the board.	
2. Nairobi City County Social Services Department			2. 24(2)(c) insert the phrase "or guardian" immediately after the phrase "parent"		Agreed	
3. Kenya National Commission on Human Rights KNHCR			1. amend to provide for room consultation with relevant stakeholders 2. regulations to provide for		Disregard	Agreed. Regulation clause to also be

		complaints reporting mechanism by the public as well as how inspections will be conducted and identify parameters for effective monitoring and evaluation of the regulations.	amended to include the other areas discussed above.
MEMORANDUM OF OBJECTS AND REASONS			
1. ECD Network	<p>1. the word "punishment" be replaced with "discipline"</p> <p>2. ensure clarity on the use of the terms "among others, hygiene, food, safety, staff age limit, protection, instructional material etc.</p> <p>3. clarify the phrase "this Act shall not result in expenditure of public funds"</p>	<p>2. the Bill should be clear</p> <p>3. the statement is vague.</p>	Agreed
2. Nairobi City	1. delete the phrase		Agreed

County Social Services Department		<p>“department” and replace therewith the phrase “sector”</p> <p>2. CECM title to be in full i.e Education, Children, Youth Affairs and Sports.</p> <p>3. insert the phrase “or guardian” immediately after the phrase “parent”</p> <p>4. mention case records.</p>		Agreed
				Agreed
				Disregard





20<sup>th</sup> June, 2017

The Clerk  
Nairobi City County Assembly  
NAIROBI.

**RE: COMMITTEE STAGE AMENDMENTS TO THE NAIROBI CITY COUNTY  
CHILDCARE FACILITIES BILL 2017.**

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**NOTICE** is given that the chairperson of the 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—

**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 therefor 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 **“assessor”** 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:

- (ii) In sub clause 1 by deleting the word **“Department”** wherever it appears and substituting therefor the word **“Sector”**
- (i) In sub clause 3 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (ii) 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”**
- (iii) 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”**
- (iv) 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”**
- (v) In sub clause 9 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (vi) 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 **“assessors”**



## 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 2-

**“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:

- (iii) 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”**
- (i) 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-

**(16) “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 **“assessor”**

## **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 **“assessor”** 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;

(iv) In sub clause (1) by deleting the word **“inspector”** and substituting therefor the word **“assessor”** 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”**

(iii) By deleting sub clause 2 entirely and substituting therefor the following new sub clause-

**(2) Every assessor 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;**



.....  
**Chairperson, Committee on Children, Early Childhood Education and Vocational Training.**

**MINUTES OF THE 41<sup>ST</sup> SITTING OF NAIROBI CITY COUNTY ASSEMBLY  
COMMITTEE ON CHILDREN, EARLY CHILDHOOD EDUCATION AND  
VOCATIONAL TRAINING HELD ON TUESDAY, 20<sup>TH</sup> JUNE, 2017 AT 11:40  
A.M. CHARTER HALL**

**PRESENT:**

1. Hon. David Kitavi, MCA - Chairperson
2. Hon. Kingsley Odida, MCA - Vice Chairperson
3. Hon. Elias Otieno Okumu, MCA
4. Hon. Jack Ngare, MCA
5. Hon. Florence Athembo, MCA
6. Hon. Imelda Wanjala, MCA
7. Hon. Fredrick Obenge, MCA
8. Hon. Ngaruiya Chege, MCA
9. Hon. Beatrice Kwamboka, MCA
10. Hon. Karen Wanjiku, MCA
11. Hon. Alexina Mudi, MCA
12. Hon. Njoroge G. Maina, MCA
13. Hon. Elizabeth Sang, MCA

**ABSENT:**

1. Hon. Isaac N. Ngige, MCA
2. Hon. Mercy Kariuki, MCA
3. Hon. Ruth Njeri, MCA
4. Hon. Jane Muasya, MCA

**SECRETARIAT – COUNTY ASSEMBLY**

Mr. Guyo Sankala – Clerk Assistant

**IN- ATTENDANCE– COUNTY ASSEMBLY**

Ms. Daisy Kariuki- Senior Legal Counsel

**AGENDA**

1. Preliminaries
2. **Nairobi City County Childcare Facilities Bill, 2017:**
  - *Consideration and adoption of the Amendments to Nairobi City County Childcare Facilities Bill, 2017.*
3. Any other business
4. Adjournment

**MIN 203/ JUNE/2017 – PRELIMINARIES**



The Committee Chairperson called the meeting to order at 12:06 pm and opened with a word of prayer. Hon. Elias Otieno proposed and Hon. Karen Wanjiku seconded that the agenda be adopted.

**MIN 204/JUNE /2017- CONSIDERATION AND ADOPTION OF THE AMENDMENTS TO NAIROBI CITY COUNTY CHILDCARE FACILITIES BILL, 2017**

The legal Counsel took the members through the final Amendments to Nairobi City County Childcare Facilities Bill, 2017. Illustration given herein is final Committee stage amendments to the Bill.

**1. COMMITTEE STAGE AMENDMENTS TO THE NAIROBI CITY COUNTY CHILDCARE FACILITIES BILL, 2017**

**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:

- (iii) In the definition of the word **"applicant"** by inserting the words **"legal associations, groups or organizations"** immediately after the word **"individual"**
- (iv) In the definition of the word **"childcare"** by deleting the expression **"may include"** and substituting therefore the word **"shall include welfare,"**
- (v) In the definition of the word **"child care provider"** by inserting the words **"their agents or representatives"** immediately after the word **"person"**
- (vi) 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"**
- (vii) 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."**

- (viii) In the definition of the word **"facility"** by deleting the expression **"any place"** and substituting therefor the expression **"designated place"**.
- (ix) In the definition of the word **"inspector"** by deleting the word **"inspector"** wherever it appears and substituting therefor the expression **"assessor"** and by deleting the numeral **"14"** and substituting therefor the numeral **"20"**
- (x) 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.**
- (xi) 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:

- (ii) In sub clause 1 by deleting the word **“Department”** wherever it appears and substituting therefor the word **“Sector”**
- (i) In sub clause 3 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (ii) 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”**
- (iii) 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”**
- (iv) 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”**
- (v) In sub clause 9 by deleting the word **“Department”** and substituting therefor the word **“Sector”**
- (vi) 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 **"assessors"**

#### **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 2-

**"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:

- (iii) 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"**



- (i) 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-

**(16) “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 “assessor”**

## **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 **“assessor”** 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;



(iv) In sub clause (1) by deleting the word **"inspector"** and substituting therefor the word **"assessor"** 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"**

(iii) By deleting sub clause 2 entirely and substituting therefor the following new sub clause-

**(2) Every assessor 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.**

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**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.**

## **2. COMMITTEE OBSERVATION**

The Committee having deliberated on the Bill for a quite number of days noted the following that;

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- i. The Committee proposed amendments to the Bill in the **Long title, Clauses 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23 and 24;**
  - ii. The Committee **agreed to clauses 6 and 22** therefore **no** amendments made; and
  - iii. Further there were a few additional clauses for example a new clause was inserted immediately after Clause 17- that is clause 18(i) in order to address issues of sexual offences in situations where any caregiver/person involve in seduction or defilement of any child.

**3. ADOPTION OF THE REPORT ON THE CONSIDERATION OF AMENDMENTS TO THE NAIROBI CITY COUNTY CHILDCARE FACILITIES BILL, 2017**

The report on the consideration of the amendments to the Nairobi City County Childcare Facilities Bill, 2017 was finally adopted by the majority of the membership of the Committee after being proposed by Hon. Karen Wanjiku and seconded by Hon. David Kitavi.

**MIN 205/ JUNE /2017-ANY OTHER BUSINESS**

There was no any other business considered by the Committee.

**MIN 206/ JUNE /2017-ADJOURNMENT**

The Committee Chairperson adjourned the meeting at 1:25p.m.

**CONFIRMED AS TRUE RECORDS OF PROCEEDINGS**

CHAIRMAN.....*for [Signature]*

DATE.....*21st/06/2017*