

THE CHILDREN'S COMMUNITY RESIDENCES, FOSTER
HOMES AND NURSERIES (AMENDMENT) ACT, 2008

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First Session Ninth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 15 of 2008

[L.S.]

AN ACT to amend the Children's Community Residences,
Foster Homes and Nurseries Act, 2000

[Assented to 29th September, 2008]

WHEREAS it is enacted by section 13(1) of the ^{Preamble} Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution, and if any Act does so declare it shall have effect accordingly:

And whereas it is provided in subsection (2) of the said section 13, that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of the House:

And whereas it is necessary and expedient that this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:—

Short title 1. This Act may be cited as the Children's Community Residences, Foster Homes and Nurseries (Amendment) Act, 2008.

Interpretation 2. In this Act, "the Act" means the Children's
Act No. 65 of 2000 Community Residences, Foster Homes and Nurseries Act, 2000.

Long title amended 3. The long title to the Act is amended by deleting the word "Homes" and substituting the word "Care".

Section 1 amended 4. The Act is amended in section 1 by deleting the word "Homes" and substituting the word "Care".

Section 2 amended 5. The Act is amended in section 2 –
 (a) by inserting in the correct alphabetical order the following definitions:
 "community register" means the register of children in the care of a community residence kept in accordance with section 22;
 "Manager" means a person who operates a community residence in accordance with the provisions of section 21;

“nursery licence” means a licence issued under section 44;

“relative” has the meaning assigned to it under the Children’s Authority Act; ”;

(b) in the definition of “Children’s Home”, by deleting the words “Children’s Act” and substituting the words “Children Act”;

(c) by deleting the definition of “community residence” and substituting the following definition:

“ “community residence” means a Children’s home or rehabilitation centre and includes Industrial Schools and Orphanages referred to in the Children Act;”;

(d) by deleting the definitions of “Community Service” and “Detention Order”;

(e) in the definition of “Register of residences”, by deleting the word “residences” and substituting the word “Residences”; and

(f) in the definition of “rehabilitation centre”, by deleting the words “industrial school as defined to” and substituting the words “Industrial Schools as defined”.

6. The Act is amended in Part II, by deleting the title Part II amended and substituting the following title: “LICENSEES OF COMMUNITY RESIDENCES”.

7. The Act is amended in section 3— Section 3 amended

(a) in subsection (1), by deleting the word “operate” and substituting the words “manage”; and

(b) by inserting after subsection (2) the following subsection:

“ (3) In this Part “licensee” means the person to whom a residence licence is granted under section 5.”.

Section 4 amended

8. The Act is amended in section 4—

- (a) in subsection (1), by deleting the words “All existing community residences shall within three months upon” and substituting the words “All managers of existing community residences shall within three months upon the”; and
- (b) in subsection (2), by deleting the word “may” and substituting the word “shall”.

Section 5 amended

9. The Act is amended in section 5—

- (a) in subsection (1), by deleting—
 - (i) the words “operating or”; and
 - (ii) the word “may” and substituting the word “shall”; and
- (b) in subsection (3), by deleting the word “may” in the first place where it occurs and substituting the word “shall”.

Section 6 deleted

10. The Act is amended by deleting section 6.

Section 8 amended

11. The Act is amended in section 8—

- (a) in subsection (1), by deleting the word “may” and substituting the word “shall”; and
- (b) by inserting after subsection (2) the following subsection:
 - “ (2A) Notwithstanding subsection (2), where an application is made for the renewal of a residence licence, the existing licence shall remain valid until the determination of the application by the Authority.”.

Section 9 amended

12. The Act is amended in section 9(1) (b), by deleting the words “the person to whom a Residence Licence is granted under section 5 (hereinafter referred to as the “licensee”)” and substituting the words “the licensee”.

13. The Act is amended in section 11—

Section 11 amended

- (a) by deleting the word “Notice” wherever it occurs and substituting the word “notice”; and
- (b) by inserting after section 11 the following section:

“Notice of
revocation

11A. (1) The Authority shall serve on the licensee or Manager written notice of its intention to revoke a residence licence fourteen days prior to the date of revocation.

(2) A notice revoking a residence licence shall state the grounds on which the Authority intends to revoke the residence licence and where corrective measures are possible, shall require that they be taken within such time as the Authority shall specify in the notice.

(3) Notwithstanding subsection (1), where the Authority determines that no corrective measures are possible, the notice of the revocation of the residence licence shall take immediate effect.”

14. The Act is amended in section 12, by deleting the word “Notice” and substituting the word “notice”. Section 12 amended

• Section 12 amended

15. The Act is amended in section 13, by deleting the words “youthful offender or”.

Section 13 amended

16. The Act is amended in section 14—

- (a) in subsection (1), by deleting the word “operate” and substituting the word “manage”; and
- (b) in subsection (3), by—
- (i) deleting the words “originating summons” and substituting the words “Fixed Date Claim”; and

- (ii) deleting the words “Judge in Chambers” and substituting the word “Judge”.

Section 15 amended **17.** The Act is amended in section 15, by deleting the words “some other community residence” and substituting the words “other community residences.”.

Section 16 amended **18.** The Act is amended in section 16, by deleting the words “final decision” and substituting the words “issuance, revocation or surrender of such residence licence”.

Section 17 amended **19.** The Act is amended in section 17, by—

- (a) inserting the word “(1)” after the number “17”;
- (b) deleting the word “operates” and substituting the word “manages”;
- (c) deleting the word “condition” and substituting the word “conditions”;
- (d) inserting after the words “commits an offence and” the word “shall”; and
- (e) inserting after subsection (1) the following subsection:
 - “ (2) Subsection (1) shall not apply where such person has submitted an application for a residence licence to the Authority pursuant to section 5 and has not received notice of the refusal of such application.”.

Section 18 amended **20.** The Act is amended in section 18(2) by inserting after the word “Register” the words “of residences”.

Section 19 amended **21.** The Act is amended in section 19—

- (a) in subsection (1), by deleting the word “withdrawal” and inserting the word “revocation”; and

(b) in subsection (2), by deleting the words “youthful offender or”.

22. The Act is amended in section 20 by deleting the words “youthful offender or”. Section 20 amended

23. The Act is amended in section 22— Section 22 amended

(a) by deleting the word “manager” and substituting the word “Manager”;

(b) in paragraph (a), by—

(i) deleting the word “Register” and substituting the word “register”;
and

(ii) deleting the word “community” in the second place where it occurs;
and

(c) in paragraph (c), by deleting the words “,and the Regulations made thereunder”.

24. The Act is amended in section 23(2), by inserting the word “shall” before the words “whenever so required”. Section 23 amended

25. The Act is amended in section 25(1), by inserting after the word “shall” the words “within sixty days or such further period as determined by the Authority,”. Section 25 amended

26. The Act is amended in section 27(2), by deleting the words “by the Authority” and substituting the words “by the Court”. Section 27 amended

27. The Act is amended by deleting section 28 and substituting the following section: Section 28 amended

28. There is established a system of foster care in Trinidad and Tobago to be managed by the Authority.”. “Establishment of foster care system”

Section 29 amended

28. The Act is amended in section 29—

(a) by deleting the word “Minister” wherever it occurs and substituting the word “Authority”;

(b) in subsection (3)—

(i) in paragraph (a), by inserting a semicolon after the words “foster child” and deleting all the words appearing thereafter;

(ii) in paragraph (b), by deleting the word “and” after the words “foster care”;

(iii) by deleting the full stop at the end of paragraph (c) and inserting a semicolon; and

(iv) by inserting after paragraph (c) the following paragraph:

“(d) “foster home” means the home of a foster parent.”.

Section 30 amended

29. The Act is amended in section 30 by—

(a) renumbering section 30 as section 30(1);

(b) deleting the word “Minister” and substituting the word “Authority”;

(c) inserting the following subsections:

“ (2) Approved foster parents shall be subject to annual reviews by the Authority.

(3) Notwithstanding subsection (2), the Authority may at any time cancel the registration of an approved foster parent.

(4) The Authority shall give written notification of the cancellation of registration to the foster parent.”.

30. The Act is amended by deleting section 31 and Section 31 amended substituting the following section:

“Foster
parents to be
trained 31. Where an applicant is to be made a foster parent, the Authority shall cause the applicant and members of his household to be suitably trained in the roles, functions and duties involved in foster care.”.

31. The Act is amended in section 32(3), by deleting Section 32 amended all the words after the words “subsection (1),” and substituting the words “commits an offence and is liable on summary conviction to a fine of ten thousand dollars and twelve months imprisonment”.

32. The Act is amended in section 33— Section 33 amended

(a) in subsection (1), by inserting after the words “admission to any premises” the words “where a foster child is being kept”;

(b) in subsection (2)—

(i) by deleting the word “if” and substituting the word “is”;

(ii) by deleting the word “is” and substituting the word “are”; and

(iii) by deleting the word “therein” and substituting the word “therefrom”.

33. The Act is amended in section 34— Section 34 amended

(a) in subsection (1), by deleting the word “Minister” and substituting the word “Authority”; and

(b) in subsection (2), by deleting all the words after the word “offence” and substituting the words “and is liable on summary conviction to a fine of ten thousand dollars and twelve months imprisonment”.

Section 35 amended

34. The Act is amended in section 35—

(a) in paragraph (a), by deleting the word “is” and substituting the word “are”; and

(b) by renumbering paragraphs “(e)” and “(f)” as subparagraphs “(i)” and “(ii)” respectively.

Section 37 amended

35. The Act is amended in section 37—

(a) in subsection (1), by deleting the word “or” and substituting the word “and”; and

(b) in subsection (2), by deleting the words “advertises in contravention of” and substituting the words “contravenes”.

Section 41 amended

36. The Act is amended in section 41—

(a) in paragraph (a), by deleting the words “a child”, in the second place where it occurs, and substituting the words “that child”; and

(b) in paragraph (b), by deleting the words “as a fit person”, and substituting the words “named as a fit person under section 23(1) of the Children Act or other statutory provision.”; and

(c) by inserting after paragraph (b), the following paragraph:

“(c) any person who has been granted a release on licence under section 56 (1) of the Children Act, or into whose care a child has been released from a community residence under section 57 of the Children Act.”.

37. The Act is amended in section 42—

Section 42 amended

- (a) by deleting subsection (1) and substituting the following:

“Restriction
on
management
of nurseries

42. (1) No person shall manage a nursery without a nursery licence issued by the Authority.”;

- (b) by deleting subsection (3) and substituting the following subsection:

“(3) In this Part—

- (a) “nursery” includes “day care” and means any premises used for the care of children under the age of six years for material reward and for periods which exceed one hour provided however that ordinary arrangements for the care of children within a family shall not be included; and
- (b) “licencee” means the person to whom a nursery licence is granted under section 44.”.

38. Section 43 of the Act is amended—

Section 43 amended

- (a) in subsection (1), by—
- (i) inserting after the word “All” the words “managers of”; and
 - (ii) deleting the words “Residence Licence” and substituting the words “nursery licence”;
- (b) in subsection (2), by deleting the word “may” and substituting the word “shall”; and

- (c) by inserting after subsection (2) the following subsection:

“ (3) Where the Authority refuses to grant a licence it shall, upon request by the applicant, give its reasons for refusal in writing.”.

Section 44 amended **39.** The Act is amended in section 44—

- (a) by deleting subsection (1) and substituting the following subsection:

“ (1) A person managing or intending to manage a nursery shall apply to the Authority for a nursery licence.”; and

- (b) in subsection (3), by deleting the word “may” and substituting the word “shall”.

Section 45 amended **40.** The Act is amended in section 45—

- (a) by deleting paragraph (a) and substituting the following paragraph:

“(a) made adequate arrangements for the health care, safety, security, well being and nourishment of the children received in the nursery;”;

- (b) in paragraph (c)—

(i) by deleting the word “provisions” and substituting the word “provision”;

(ii) by deleting the word “premises” and substituting the word “nursery”;

- (c) in paragraph (d), by inserting the word “made” before the word “provision”; and

- (d) in paragraph (e), by deleting the word “premises” and substituting the word “nursery”.

41. The Act is amended by deleting section 47 and substituting the following section: Section 47 amended

“Penalties for failure to licence 47. (1) A person who manages a nursery—

(a) without a licence issued by the Authority; or

(b) who fails to comply with any of the requirements specified in section 45,

commits an offence and is liable on summary conviction to a fine of five thousand dollars.

(2) Subsection (1)(a) shall not apply where such person has submitted an application for a nursery licence to the Authority pursuant to section 43 and has not received notice of the refusal of such application.”.

42. The Act is amended in section 48 by deleting the words “operates” and “operate” and substituting the words “manages” and “manage”, respectively. Section 48 amended

43. The Act is amended in section 49, by deleting the words “Residence Licence” and substituting the words “nursery licence”. Section 49 amended

44. The Act is amended in section 50, by deleting subsections (2) and (3) and substituting the following subsections: Section 50 amended

“ (2) Every such notice shall state the grounds on which the Authority intends to revoke the nursery licence and where corrective measures are possible, shall require that these be taken within such time as the Authority shall specify in the Notice.

(3) Where no corrective measures are possible the notice shall revoke the licence with immediate effect.”.

Section 51 amended

45. The Act is amended in section 51—

(a) in subsection (1), by—

(i) inserting after the words “refused or” the words “revoked or”;

(ii) inserting after the words “against such refusal or revocation” the words “or proposed revocation”;

(b) in subsection (2), by deleting paragraph (c) and substituting the following paragraph:

“(c) may direct the Authority to withdraw such notice and the Authority shall comply with any direction given to it by the Minister under this subsection.”;

(c) in subsection (3), by—

(i) deleting the word “withdrawal” and substituting the word “revocation”; and

(ii) deleting the words “Judge in Chambers” and substituting the words “Judge”.

Section 52(A) inserted

45(A). The Act is amended by inserting after section 52 the following section:

“Inapplic-
ability of
Part V

52(A). (1) This Part shall not apply to—

(a) infant and nursery schools or departments of schools providing education suitable for children under the age of five years in the Public School System under section 12(1)(a) of the Education Act;

- (b) primary schools or departments of schools providing education suitable for children of age five to twelve years in the Public School System under section 12(1)(b) of the Education Act; and
- (c) private institutions providing early childhood care and education to children between the ages of three to six years.”.

46. The Act is amended in section 53—

Section 53 amended

- (a) in subsection (1), by deleting the word “may” and substituting the word “shall”; and
- (b) by deleting subsection (2) and substituting the following subsection:
 - “ (2) Regulations made under this Act shall be subject to affirmative resolution of Parliament.”.

47. The Act is amended by deleting section 54 and substituting the following section:

Section 54 amended

- “Construction of certain references 54. Where in any other written law reference is made to an orphanage or industrial school such references shall be read as references to a children’s home or a rehabilitation centre, respectively.”.

Passed in the House of Representatives this 18th day of June, 2008.

J. SAMPSON
Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of 32 members of the House.

J. SAMPSON
Clerk of the House

Passed in the Senate this 30th day of July, 2008.

N. JAGGASSAR
Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of 28 members of the Senate.

N. JAGGASSAR
Clerk of the Senate

Senate amendments agreed to by the House of Representatives this 5th day of September, 2008.

J. SAMPSON
Clerk of the House