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THE CHILDREN'S COMMUNITY RESIDENCES, FOSTER HOMES AND NURSERIES ACT, 2000

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REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 65 of 2000

AN ACT to make provision for the monitoring, licensing and regulating of community residences, foster homes and nurseries in Trinidad and Tobago.

[Assented to 23rd October, 2000]

Preamble

WHEREAS it is enacted by section 13(1) of the 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 of 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 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:-

PART I
PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Children's Community Residences, Foster Homes and Nurseries Act, 2000.

(2) This Act comes into operation on such day as is fixed by the President by Proclamation.

Interpretation

2. In this Act-

"Authority" means the Children's Authority established under the Children's Authority Act

[Act No. 64 of 2000];

"Detention Order" means an order of a Court ordering a youthful offender to be detained and kept in a community residence;

"Children's Home" means a residence for the care and rehabilitation of children and includes orphanages as defined in the Children's Act **[Chap. 46:01]**;

"Community Service" has the meaning assigned to it by the Community Service Orders Act **[Act No. 19 of 1997]**;

"Minister" means the Minister to whom responsibility for the welfare of children is assigned;

"Register of residences" means the Register of licenced community residences kept in accordance with section 18;

"community residence" means a children's Home or rehabilitation center and includes industrial schools and orphanages referred to in the Children's Act;

"residence licence" means a licence issued under section 5; and

"rehabilitation centre" means a residence for the rehabilitation of youthful offenders, in which youthful offenders are lodged, clothed, and fed as well as taught and includes industrial school as defined to in the Children Act.

PART II

LICENCING OF COMMUNITY RESIDENCES

Requirement to be licenced

3. (1) No person shall operate a community residence without a residence licence issued by the Authority.

(2) No child shall be cared for and provided with accommodation in a community residence unless a residence licence has been issued in respect of that community residence under subsection (1).

Existing community residences

4. (1) All existing community residences shall within three months upon coming into force of this Act apply to the Authority for a residence licence.

(2) The Authority may within six months of receiving an application under subsection (1) issue or refuse a licence.

Application for residence licence

5. (1) A person operating or intending to operate a community residence may make an application for a residence licence to the Authority.

(2) An application shall be made in the prescribed manner and shall be accompanied by-

(a) such particulars as may be prescribed; and

(b) such fee as the Authority may prescribe.

(3) The Authority may issue a residence licence where it is satisfied that a residence with respect to which an application has been made, complies with such requirements as may be prescribed.

Requirements

6. A Residence Licence shall not be granted under section 5 unless the applicant-

- (a) satisfies the Authority that the building intended for the purpose has been approved by relevant Health and Building Authorities as to its fitness for the purpose;
- (b) has adequate staff with a proper staff to child ratio, taking into account the ages, the number of children it caters for, as well as any special requirement of children for whom care is being provided;
- (c) shows proof that the staff of the community residence for which the application is made, has adequate training and experience in child care;
- (d) can establish that the resources of the community residence are adequate to maintain the community residence and provide for children cared for therein; and
- (e) meets such other requirements that may be prescribed by the Authority.

Residences to be inspected

7. The Authority shall, prior to the issue of a residence licence inspect such residence to ascertain its suitability for the purpose.

Issue of residence licence

8. (1) Where the Authority is satisfied that the applicant has complied with the requirements for the issue of a residence licence the Authority may issue to the applicant a residence licence in respect of the community residence and the residence licence shall contain provisions setting out the following:

- (a) the terms and conditions of the residence licence;
- (b) the procedures for enforcement of the terms and conditions of the residence licence;
- (c) the nature of the service to be provided by the licensee; and
- (d) any other matter relevant to the provision of the service which, in the opinion of the Authority should be included in the residence licence.

(2) A residence licence issued under subsection (1) shall be valid for one year and may be renewed annually upon application by the licensee.

(3) The residence licence issued under subsection (1) shall be displayed in a conspicuous place at the community residence.

Conditions

9. (1) It shall be a condition of every residence licence issued under this Part, that-

- (a) any authorised representative of the Authority shall, upon presentation of his official identification, be allowed entry into the premises of a licensed residence for any of the

purposes of this Act;

- (b) the person to whom a Residence Licence is granted under section 5 (hereinafter referred to as the "licensee") or manager of a residence shall allow any person authorised by the Authority to inspect the books of accounts, papers, records and documents of the residence at any reasonable time;
- (c) the licensee shall furnish any information required by the Authority which is in the possession or control of the licensee or manager of the community residence; and
- (d) the licensee shall not surrender his residence licence without giving the Authority six months notice of his intention to so surrender.

(2) The information referred to in paragraph (c) shall be prepared and furnished to the Authority within such time and in such manner and form and with such particulars and certification as may be required by the Authority.

Penalty for furnishing false information

10. Any licensee or manager of a community residence who willfully furnishes false information to the Authority, commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

Revocation of residence licence

11. (1) Where a licensee is in breach of any provision of this Part or any term or condition of the residence licence, the Authority may revoke his licence.

(2) Where the Authority is dissatisfied with the conditions, rules, management or superintendence of a community residence it may at any time, by notice served on the licensee or the manager of the community residence, require that corrective measures be taken within such time as the Authority may specify in such notice.

(3) Where a Notice has been served on a licensee under subsection (2) and the licensee has failed to take the corrective measures required, the Authority may serve Notice on the licensee or the manager of the community residence of its decision to revoke the residence licence as from such time as may be specified, in the Notice, being not less than six months after the date of the Notice.

Surrender of residence licence by licensee

12. Where a licensee of a community residence wishes to surrender his residence he may, on giving six months notice in writing to the Authority of his intention so to do, surrender such residence licence and accordingly, at the expiration of six months from the date of the Notice the community residence shall cease to be a community residence.

Effect of revocation or surrender of residence licence

13. A youthful offender or child shall not be received into a community residence in pursuance of this Part after the date of the receipt by the manager of a notice of revocation of the residence licence under section 11 or after the date of a notice of surrender of the residence licence under section 12.

Appeal

14. (1) Where an application for a residence licence to operate a community residence is refused or it is proposed to revoke the residence licence, the applicant or the licensee as the case may be, may within fourteen days from the receipt of the notice of refusal or revocation, appeal to the Minister in writing against the refusal or revocation, setting out the grounds of his appeal.

(2) In furtherance of an appeal made to the Minister under subsection (1), the Minister:

- (a) shall consider the appeal within six weeks of the date of receipt of the appeal; and
- (b) may dismiss the appeal giving his reasons in writing; or
- (c) may direct the Authority to withdraw such refusal or revocation, and issue or re-issue a residence licence, and the Authority shall comply with any direction given to it by the Minister under this subsection.

(3) Where the Minister dismisses an appeal made to him under subsection (1), the person aggrieved may, by originating summons served on the Authority and the Minister, appeal to a Judge in Chambers who may-

- (a) pending a decision in the matter, make such interim order as he sees fit, to preserve the respective interests of the appellant, the Authority and the Minister in this matter; or
- (b) dismiss the appeal or order that the listing be revoked or amended.

Transfer of children

15. (1) Where a community residence ceases to be a licenced community residence, the Authority shall transfer the children detained or kept therein to some other community residence.

(2) The Authority upon such transfer under subsection (1), shall inform the Court of all such transfers.

Publication of grant, etc., of residence licence

16. The Authority shall publish in the *Gazette*, a notice of the issuance, revocation or surrender of a residence licence, within one month from the date of the final decision.

Penalty for operating without residence licence

17. Any person who operates a community residence without a residence licence issued by the Authority or breaches the condition of the residence licence referred to in section 9, commits an offence and on summary conviction be liable to a fine of ten thousand dollars and in the case of a continuing offence to a fine of five hundred dollars for each day the offence continues.

Register of Residences

18. (1) The Authority shall maintain, in accordance with any regulations that may be made, a Register of Residences in Trinidad and Tobago licenced under this Act.

(2) The Register shall be open to public inspection during office hours.

Proof of registration

19. (1) Publication in the *Gazette of a* notice of the grant, withdrawal or surrender of a residence licence shall be sufficient evidence of a residence licence having been duly granted, withdrawn or surrendered.

(2) A certificate purporting to be signed by the manager of a community residence, to the effect that the youthful offender or child therein named was duly received into, and is at the date of the signing thereof detained in the community residence or has been otherwise dealt with according to law, shall be evidence of the matters therein stated.

Certification by manager

20. A certificate signed by the manager stating that any sum due from a parent or other person for the maintenance of a youthful offender or a child is overdue and unpaid, shall be evidence of the facts stated therein.

PART III

MANAGEMENT OF COMMUNITY RESIDENCES

Manager of residences

21. (1) There shall be a Manager of a community residence who shall have the management and control of the community residence.

(2) No person shall function as a Manager of a community residence unless he possesses qualifications prescribed by the Authority

Requirements of manager

22. In addition to any other duties and functions under this Act, the manager of a residence shall-

- (a) keep a Register of all children in the care of the community residence and such community register shall contain such information as may be prescribed;
- (b) maintain proper accounts and submit to the Authority annually, a copy of the audited accounts; and
- (c) maintain the community residence in accordance with the requirements under this Act, and the Regulations made thereunder.

Rules

23. (1) The Authority shall make Rules for the proper management of all community residences.

(2) The manager of a community residence may at anytime, and whenever so required by the Authority, make Rules subject to the approval of the Authority for the management and discipline of the children in such residence.

Alteration to buildings

24. (1) The licensee or Manager of any community residence shall not add to, alter or cause to be added to or altered any buildings of a community residence without first notifying the Authority and obtaining its approval.

(2) An approval referred to in subsection (1) shall be given or refused within three months of the notification being given.

Children in existing community residences

25. (1) Where, on the coming into force of this Act, a community residence is in existence, the Manager of such residence shall provide the Authority with the following information in respect of every child in its care:

- (a) the name, date of birth and sex of such child;
- (b) the names, addresses and contact numbers of the parents, brothers, sisters and other close relatives of such child where they can be ascertained;
- (c) the circumstances under which the child came to be in the community residence; and
- (d) the treatment plan prepared in respect of such child.

(2) The Authority upon receiving such information shall, as soon as practicable, evaluate the child and the suitability of the placement of the child in the community residence.

(3) Upon completing its evaluations under subsection (2), the Authority may direct the Manager of the community residence to take all necessary steps to ensure proper care of the child.

(4) Where the Authority is of the opinion, that the community residence in which a child has been placed is not suitable, having regard to the needs of such child, the Authority shall make an application to the Court for an order under section 25 of the Children's Authority Act.

Reception of child by a community residence

26. (1) Where a community residence receives a child in respect of whom no Care Order has been made the Manager of such community residence shall-

- (a) within twenty-four hours of receiving the child inform the Authority of the reception; and
- (b) ensure that such child is brought to the Authority within seventy-two hours of such receipt.

(2) The Authority upon receipt of such information under subsection (1)(a), record that reception by the community residence, and the same procedure for receiving a child under section 22 of the Children's Authority Act shall apply to that child when brought to the Authority by such community residence under subsection (1)(b).

Power of entry and inspection

27. (1) The Authority may authorise one of its officers, at all reasonable times to enter any community residence to inspect the premises and the children so received therein, the arrangements for their welfare, and any records relating to them kept in pursuance of this Part.

(2) Where the officer referred to subsection (1), is refused admission to any premises, or has reasonable cause to believe that children are being received or kept in premises in contravention of this Act, he may on warrant issued by the Authority enter such premises.

(3) Any person who obstructs an officer authorised to make such entry, in the exercise of his powers, under the Act commits an offence and is liable on summary conviction to a fine of five thousand dollars.

PART IV

FOSTER CARE OF CHILDREN

Foster care system

28. The Minister shall establish a system of foster care.

Application for foster parent

29. (1) Where a person wishes to become a foster parent he shall apply to the Minister for approval in the prescribed form.

(2) The Minister on receiving an application under subsection (1) shall cause all investigations necessary to be conducted to determine the suitability of-

- (a) the applicant to be a foster parent; and
- (b) the home of the applicant to receive a child for foster care.

(3) In this part-

- (a) "foster care" means the assuming of temporary care, maintenance and parental obligations by an approved foster parent in respect of a foster child with a view to returning the child to his family;
- (b) "foster child" means a child who has been identified by the Authority as suitable for foster care; and
- (c) "foster parent" means a person approved under subsection (1) to receive and provide temporarily care for a foster child.

Register

30. The Minister shall cause a Register of approved foster parents to be maintained.

Foster parent to be trained

31. Where an applicant is found to be a suitable foster parent the Minister shall cause the applicant to be trained in his roles, functions and duties as a foster parent.

Responsibility of foster parents

32. (1) It shall be the responsibility of the foster parent to look after the health, education and welfare needs of the foster child in his care.

(2) The Authority shall authorise an officer to visit from time to time, a foster child and the

premises in which he is being kept in order to satisfy itself as to whether the health, educational and welfare needs of the child are being met and to give where necessary advice or directions to the foster parents as to the care of the child.

(3) Any person who receives a foster child and fails or neglects to look after the health, educational and welfare needs as specified in subsection (1), is guilty of an offence and is liable on summary conviction to a fine of five hundred dollars.

Refusal of foster parent to allow visit

33. (1) Where an officer authorised to visit foster children is refused admission to any premises or has reason to believe that a child is being kept in any premises in contravention of this Part, he may apply to the Court for a warrant to enter such premises.

(2) Where the Court, if satisfied, on sworn testimony, that admission has been so refused, or that there is reasonable grounds to believe that an offence under this Part has been committed the Court may grant a warrant authorising the officer to enter the premises and remove the foster child therein.

Persons prohibited from receiving foster children

34. (1) A person shall not receive or keep a foster child without the consent of the Minister-

- (a) where that child has been previously removed from the care of that person under this Part; or
- (b) in any premises from which any child has been removed under this Part by reason of the premises being dangerous or unsanitary or by reason of the premises being unfit as to endanger the health of the child.

(2) Any person who keeps or causes a foster child to be kept in contravention of this section, commits an offence and shall be liable on summary conviction to a fine of five hundred dollars and imprisonment for a term of six months; and the Court may make an order in respect of that child.

Removal of foster children kept in unsuitable premises or by unsuitable persons

35. Where a foster child is to be received or is being kept-

- (a) in any premises which is unsanitary, overcrowded or dangerous;
- (b) by any person who by reason of old age, infirmity, ill-health, negligence, inebriety, immorality or criminal conduct or for any other reason is unfit to have the care of the child;
- (c) in an environment which is detrimental to the child; or
- (d) in any premises or by any person in contravention of the provisions of this Part,

the Authority may-

- (e) where the child is the subject of a care order placing him in foster care apply to the Court for an order, to remove that child to the care of another approved foster parent until such time as the child is returned to his relatives or other arrangements are made with respect to him; or
- (f) where the child is not the subject of a care order placing him in foster care, remove that child to the care of another approved foster parent until such time as the child is returned

to his relatives or other arrangements are made with respect to him.

Authority to be notified of death of foster child

36. (1) Where a foster child dies while in the care of a foster parent, the foster parent shall, within twenty-four hours of the death, give notice in writing thereof to the Authority.

(2) Where a person is required to give notice under this section and fails to give such notice within the time specified he commits an offence and shall be liable on summary conviction to a fine of five hundred dollars and to imprisonment for a term of six months.

Prohibition of advertisements offering to undertake care of children

37. (1) No person shall advertise to offer foster care services or no advertisement indicating that a person will offer foster care services shall be published.

(2) Any person who advertises in contravention of this section commits an offence and shall be liable on summary conviction to a fine of one thousand dollars and to imprisonment for a term of one year.

Notice to be given of change of residence

38. Where a person who has received a foster child changes his residence he shall, not less than seven days before moving, give notice to the Authority of the intended change of residence except that where an immediate change of residence is necessitated by any emergency, a notice may be given at any time within forty-eight hours after the change of residence.

Foster parent to give notice

39. Where a foster child leaves the care of its foster parent with whom he was placed without the permission of that foster parent, the foster parent shall, within twenty-four hours thereof, give the Authority notice that the child has left the foster home.

Penalties for failure to give notice

40. Any person who is required to give notice under section 38 or 39 and fails to give notice within the time specified for giving the notice, commits an offence and shall be liable on summary conviction to a fine of five hundred dollars and the Court may make an order under section 25 of the Children's Authority Act in respect of that child.

Exemptions

41. The provisions of this Part shall not apply to-

- (a) any relative or legal guardian of a child who undertakes the care and maintenance of a child; or
- (b) any person who undertakes the care and maintenance of a child as a fit person.

PART V

NURSERIES

Restriction on operation of nurseries

- 42.** (1) No person shall operate a nursery without a nursery licence issued by the Authority.
- (2) No child shall be cared for in a nursery unless a nursery licence has been issued in respect of that nursery under subsection (1).
- (3) In this Part "nursery" means any premises wholly or mainly used for receiving children under the age of six for reward to be looked after for the day or night or a substantial part thereof and includes day care.
- (4) Nothing in this section shall be construed as preventing a child from being received by a nursery during the school vacation, on public holidays or public festival days.

Existing nurseries

- 43.** (1) All existing nurseries shall within three months from the coming into force of this Act, apply to the Authority for a Residence Licence.
- (2) The Authority may within six months of receiving an application under subsection (1), issue or refuse a licence.

Application for nursery licence

- 44.** (1) A person operating or intending to operate a nursery may apply to the Authority for a nursery licence.
- (2) An application shall be made in the prescribed manner and shall be accompanied by-
- (a) such particulars as may be prescribed; and
 - (b) such fees as the Authority may prescribe.
- (3) The Authority may issue a nursery licence where it is satisfied that a nursery with respect to which an application has been made complies with such requirements as may be prescribed.

Requirements for registration

- 45.** A nursery licence shall not be granted under section 44, unless the Authority is satisfied that the applicant has-
- (a) made adequate arrangements for health care, safety, security, well being and feeding the children received in the premises and where it is undertaken an adequate and suitable diet to be provided for them;
 - (b) made provision to ensure that the children received by the applicant are under adequate medical care as may be necessary;
 - (c) made provisions for records to be kept in relation to the children received at the premises containing such particulars as may be specified by the Authority;
 - (d) provision for adequate staff with a proper staff to child ratio as specified by the

Authority;

- (e) ensured that the premises conforms with Public Health and Safety Regulations; and
- (f) met such other requirements as may be prescribed by the Authority.

Nursery to be inspected

46. The Authority shall, prior to issuing of a nursery licence inspect such nursery to ascertain its suitability for the purpose.

Penalties for failure to licence

47. A person who operates an existing nursery without a licence, or fails to comply with any of the requirements specified in section 45, commits an offence and on summary conviction shall be liable to a fine of five thousand dollars.

Change of residence

48. Where a person who operates a nursery acquires new premises or wishes to change the residence, he shall give notice thereof to the Authority and shall not operate the new premises as a nursery until the approval of the Authority is obtained.

Revocation of nursery licence

49. Where a licensee is in breach of any provision of this Part or any term or condition of the nursery licence, the Authority may revoke the Residence Licence.

Notice of revocation

50. (1) Not less than fourteen days before revoking any nursery licence, the Authority shall send to the licensee notice of its intention to revoke such licence.

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

(3) Where a Notice has been served under subsection (1), and the licensee has failed to take the required corrective measures the Authority may serve notice on the licensee of its decision to revoke the nursery licence as from a time specified in the notice, being not less than six months after the date of the notice.

Appeals

51. (1) Where an application for a nursery licence is refused or it is proposed to revoke the nursery licence, the applicant or the licensee may, within fourteen days of the receipt of the notice of refusal or revocation, appeal to the Minister in writing against such refusal or revocation setting out the grounds of his appeal.

(2) Where an appeal is made to the Minister under subsection (1), the Minister:

- (a) shall consider the appeal within six weeks of the date of receipt of the appeal; and
- (b) may dismiss the appeal giving his reasons in writing; or
- (c) may direct the Authority to revoke the refusal or withdrawal, and the Authority shall comply with any direction given to it by the Minister under this subsection.

(3) Where the Minister dismisses an appeal made to him under subsection (1), the person aggrieved by the refusal or withdrawal of the licence may, by originating summons served on the Authority and the Minister, appeal to a Judge in Chambers who may-

- (a) pending a decision in the matter, make such interim order as he sees fit, to preserve the respective interest of the appellant, the Authority and the Minister in this matter; or
- (b) dismiss the appeal or order that the licence be issued or re-issued.

Power of entry and inspection

52. (1) Any person authorized by the Authority may at all reasonable times enter a nursery and inspect the premises and the children so received therein, the arrangements for their welfare, and any records relating to them kept in pursuance of this Part.

(2) Where any person authorised as aforesaid is refused admission to any premises, or has reasonable cause to believe that children are being received or kept in a person's home or in any other premises in contravention of this Act, he may apply to the Court for a warrant to enter such premises.

PART VI

MISCELLANEOUS

Regulations

53. (1) The Authority may with the approval of the Minister, make Regulations with respect to the following matters:

- (a) the management of any community residence and discipline of the children therein, and to prescribe the punishment not exceeding \$1,000.00 for all offences committed against the rules or discipline of any community residence;
- (b) the determination of the sums or allowances from time to time to be paid or made out of moneys provided by Parliament, for the upkeep and the expenses incidental thereto of any community residence or foster home;
- (c) the allowances from time to time to be made out of moneys provided by Parliament for the maintenance and support of children detained in any community residence or foster home;
- (d) the imposition of requirements as to the accommodation, and equipment to be provided in residences, foster homes and nurseries;
- (e) medical arrangements to be made for protecting the health of the children in community residences and foster homes;
- (f) the provision of information to the Authority by the Managers as to the facilities

provided or the parents or guardians of children in community residence and foster home to visit and communicate with the children and where not so provided to authorise the Authority to give directions as to the provisions of such facilities; and

(g) all such other matters and things as may appear necessary or expedient, or are required to be prescribed for effectively carrying into operation the provisions of this Act.

(2) All such rules shall be subject to affirmative resolution of Parliament and when so affirmed shall have the same force and effect as if they were contained in this Act.

(3) The Minister may also prescribe the forms to be used for the purposes of this Part and all such forms so prescribed shall be published in the *Gazette*.

54. Where in any other written law reference is made to Orphanages and Industrial Schools such references shall be read as a reference to a Children's Home and Rehabilitation Centre.

Passed in the House of Representatives this 27th day of September, 2000.

D. DOLLY
Acting Clerk of the House

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

D. DOLLY
Acting Clerk of the House

Passed in the Senate this 3rd day of October, 2000.

N. COX
Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in 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 members of the Senate that is to say by the votes of twenty-four members of the Senate.

N. COX
Clerk of the Senate

Senate Amendments agreed to by the House of Representatives this 6th day of October, 2000.

D. DOLLY
Acting Clerk of the House

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

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32. Section 33 amended
33. Section 34 amended
34. Section 35 amended
35. Section 37 amended
36. Section 41 amended
37. Section 42 amended
38. Section 43 amended
39. Section 44 amended
40. Section 45 amended
41. Section 47 amended
42. Section 48 amended
43. Section 49 amended
44. Section 50 amended
45. Section 51 amended

- 45(A). Section 52(A) inserted
- 46. Section 53 amended
- 47. Section 54 amended

REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 15 of 2008

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

[Assented to 29th September, 2008]

Preamble

WHEREAS it is enacted by section 13(1) of the 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 Community Residences, Foster Homes and Nurseries Act, 2000 [Act No. 65 of 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".

Part II amended

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

Section 3 amended

7. The Act is amended in section 3-

(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".

Section 11 amended

13. The Act is amended in section 11-

- (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."

Section 12 amended

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

Section 13 amended

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

Section 14 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".

Section 20 amended

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

Section 22 amended

23. The Act is amended in section 22-

- (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".

Section 23 amended

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

Section 25 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 27 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 28 amended

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

"Establishment of foster care system

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

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."

Section 31 amended

30. The Act is amended by deleting section 31 and 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."

Section 32 amended

31. The Act is amended in section 32(3), by deleting 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".

Section 33 amended

32. The Act is amended in section 33-

- (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".

Section 34 amended

33. The Act is amended in section 34-

- (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."

Section 42 amended

37. The Act is amended in section 42-

- (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."

Section 43 amended

38. Section 43 of the Act is 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".

Section 47 amended

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

"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."

Section 48 amended

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

Section 49 amended

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

Section 50 amended

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

" (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:

"Inapplicability 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."

Section 53 amended

46. The Act is amended in section 53-

- (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."

Section 54 amended

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

"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.

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.

Clerk of the House

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

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.

Clerk of the Senate

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

Clerk of the House

