

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

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Clause

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No. 9 of 2008

First Session Ninth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

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

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

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Children's Community Residences, Foster Homes and Nurseries Act, 2000.

Clause 1 would provide for the short title of the Bill.

Clause 2 would provide for the interpretation provision.

Clause 3 would amend the long title of the Act.

Clause 4 would amend section 1 of the Act in keeping with the change to the long title of the Act.

Clause 5 would amend section 2 of the Act to insert new definitions and to amend or delete other definitions in the Act.

Clause 6 would amend Part II of the Act to substitute a new title.

Clause 7 would amend section 3 of the Act which deals with the requirement to be licensed.

Clause 8 would amend section 4 of the Act which deals with existing community residences.

Clause 9 would amend section 5 of the Act which deals with the application for a residence licence.

Clause 10 would delete section 6 of the Act.

Clause 11 would amend section 8 of the Act which deals with the issuance of a residence licence.

Clause 12 would amend section 9 of the Act which deals with the conditions attached to a residence licence.

Clause 13 would amend section 11 and insert a new section 11A which would deal with revocation of a residence licence and notice of revocation respectively.

Clause 14 would amend section 12 of the Act which deals with surrender of residence licence by licensee.

Clause 15 would amend section 13 of the Act which deals with the effect of revocation or surrender of residence licence.

Clause 16 would amend section 14 of the Act which deals with appeal against refusal or revocation.

Clause 17 would amend section 15 of the Act which deals with the transfer of children.

Clause 18 would amend section 16 of the Act which deals with the publication of grant, etc., of residence licence.

Clause 19 would amend section 17 of the Act which deals with the penalty for operating without a residence licence.

Clause 20 would amend section 18 of the Act which deals with the Register of Residences.

Clause 21 would amend section 19 of the Act which deals with proof of registration.

Clause 22 would amend section 20 of the Act which deals with certification by manager.

Clause 23 would amend section 22 of the Act which deals with the requirements of a Manager.

Clause 24 would amend section 23 of the Act which deals with Rules.

Clause 25 would amend section 25 of the Act which deals with children in existing community residences.

Clause 26 would amend section 27 of the Act which deals with power of entry and inspection.

Clause 27 would amend section 28 of the Act which deals with the establishment of a foster care system in Trinidad and Tobago.

Clause 28 would amend section 29 of the Act which deals with application procedure for foster parents.

Clause 29 would amend section 30 of the Act which deals with the Register of approved foster parents.

Clause 30 would amend section 31 of the Act which deals with the training of foster parents.

Clause 31 would amend section 32 of the Act which deals with the responsibility of foster parents.

Clause 32 would amend section 33 of the Act which deals with the refusal of foster parents to allow visits.

Clause 33 would amend section 34 of the Act which deals with persons prohibited from receiving foster children.

Clause 34 would amend section 35 of the Act which deals with the removal of children kept in unsuitable premises or by unsuitable persons.

Clause 35 would amend section 37 of the Act which deals with the prohibition of advertisements offering to undertake care of children.

Clause 36 would amend section 41 of the Act which deals with exemptions.

Clause 37 would amend section 42 of the Act which deals with restriction on management of nurseries.

Clause 38 would amend section 43 of the Act which deals with existing nurseries.

Clause 39 would amend section 44 of the Act which deals with the application procedure for a nursery licence.

Clause 40 would amend section 45 of the Act which deals with requirements for registration.

Clause 41 would amend section 47 of the Act which deals with penalties for failure to licence.

Clause 42 would amend section 48 of the Act which deals with change of residence.

Clause 43 would amend section 49 of the Act which deals with revocation of nursery licence.

Clause 44 would amend section 50 of the Act which deals with notice of revocation.

Clause 45 would amend section 51 of the Act which deals with appeals.

Clause 46 would amend section 53 of the Act which deals with Regulations and make them subject to negative resolution of Parliament.

Clause 47 would amend section 54 of the Act which deals with a consequential amendment to the Children Act, Chap. 46:01.

BILL

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

[, 2008]

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

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

- Interpretation
Act No. 65 of 2000
2. In this Act, “the Act” means the Children’s 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;”;
- Act No. 64 of 2000

- (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 new 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.”.

8. The Act is amended in section 4— Section 4 amended

- (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”;
- (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 5 amended

9. The Act is amended in section 5—

(a) in subsection (1), by deleting 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.”.

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

(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

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

28. The Act is amended in section 29— Section 29 amended

(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 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 suitably trained to be made a foster parent, the Authority shall cause the applicant and members of his household to be 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

Chap. 46:01

- (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.”.

Chap. 46:01

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 Section 47 amended 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.”.

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

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

44. The Act is amended in section 50, by deleting Section 50 amended 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 they 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)* by inserting after the words “refused or” the words “revoked or”;*(ii)* by 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 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 negative resolution of Parliament.”.

No. 9 of 2008

FIRST SESSION
NINTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

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

Received and read the

First time

Second time

Third time