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PART IV (A) — PROVINCIAL COUNCILS

Provincial Councils Notifications

NORTHERN PROVINCE PROVINCIAL COUNCIL

Northern Province Child Day Care Center Statute No. 03 of 2016

NOTICE is hereby given that the Northern Province, Provincial Council has adopted the Northern Province Child Day Care Center Statute No. 03 of 2016, on 21st July 2016 and that Hon. Governor, Northern Province has granted his Assent to it on 28th October 2016.

K THEIVENDRAM,
Secretary,
Council Secretariat,
Northern Provincial Council.

Council Secretariat,
A9 Road,
28th October, 2016.

A STATUTE TO PROVIDE FOR THE REGULATION, SUPERVISION AND MONITORING
OF A CHILD DAY CARE CENTRE AND FOR THE MATTERS CONNECTED
THEREWITH OR INCIDENTAL THERETO

Be it enacted by the Northern Provincial Council of the Democratic Socialist Republic of Sri Lanka as follows :-

1. This Statute may be cited as the Northern Province Child Day Care Centre Statute No. 03 of 2016 and shall come into operation on such date as the Governor of the Northern Province may give his assent thereto.

Short title and
date of operation

PART I

Object and Licensing of a Child Day Care Centre

2. The object of this Statute shall be to ensure the safety, health and wellbeing of children attending a child day care centre.

Object of the
Statute

3. No person shall establish or operate a child day care centre, except under the authority of a license issued in that behalf by the Provincial Commissioner of Probation and Child Care Services (hereinafter referred to as the "Provincial Commissioner").

License



Application for
license

4. (1) Every application for a license under Section 3 shall be made to the Provincial Commissioner in a prescribed form, and shall be accompanied by a prescribed fee. The Provincial Commissioner may where necessary, require an applicant to furnish further information including a criminal record check in relation to any member of the staff of child day care service.

(2) Every application submitted under subsection (i) shall contain complete and accurate information of all required particulars.

(3) An application found to contain false, misleading or incorrect information or particulars shall be rejected.

Inspection

5. On the receipt of an application under Section 4, the Provincial Commissioner shall authorize any officer of the Department of Probation and Child Care Services to carry out an inspection of the child day care centre to which the application relates.

Report

6. The officer authorized under Section 5 shall, upon a completion of his inspection submit a report to the Provincial Commissioner, setting out all relevant details on the inspection carried out by him of the specified child day care centre. The report shall include whether the person is a fit and proper person to provide or to involve in the provision of, child care service or to associate with children.

Issuance of
License

7. Upon the receipt of the report under section 6, the Provincial Commissioner shall, on the consideration of the matters contained in the report and any recommendations, if any, either issue a license for the establishment of the child day care centre or for reasons recorded by him refuse to issue a license.

Form and duration
of license.

8. A license issued under Section 7, shall –

- (a) be in such form as the Provincial Commissioner may determine ;
- (b) be subject to such terms and conditions as specified in the license ;
- (c) become operative from such date shall be specified in the license ; and
- (d) unless earlier revoked, be in force for the period as specified in the license.

Renewal of a
license

9. (1) A license issued under Section 7 may be renewed upon an application being submitted for that purpose in the prescribed form to the Provincial Commissioner, accompanied by the prescribed renewal fee, not less than thirty days prior to the date of expiration of the licence previously issued.

(2) The Provincial Commissioner may renew a licence on receipt of an application under subsection (1), where-

- (a) the licensee has not violated or done anything in contravention of the terms and conditions of the licence issued ;
- (b) the licensee has not contravened any provisions of this Statute or any regulation or guidelines made or issued thereunder ; or
- (c) the licensee has not contravened any provisions of the any written law relating child.

Suspension or
cancellation of a
license

10. (1) A licence issued under Section 7 may be suspended or cancelled by the Provincial Commissioner, if –

- (a) it is found that the license had been obtained by providing false, misleading or inaccurate information ;
- (b) the person who is in charge of the child day care centre has contravened any provisions of this Statute or any regulation or guidelines made or issued thereunder ;
- (c) it becomes necessary in the best interests of a child ;
- (d) the child day care centre becomes danger to the safety of the children ; or
- (e) the child day care centre has wilfully failed to comply with the guidelines.

(2) Where a licence issued is suspended or cancelled as the case may be under this Section, it shall be the duty of the Provincial Commissioner to forthwith inform the licensee of such suspension or cancellation, by a written communication sent under registered post to the address given by the licensee.

11. Where an application for the issue or renewal of a license under Section 7 of Section 9, as the case may be, has been refused, reasons for such refusal shall be recorded by the Provincial Commissioner. It shall be the duty of the Provincial Commissioner to inform the person making such application, by a written communication sent under registered post to the address appearing in the application, of the reasons for such refusal.

Reasons to be communicated

12. Any person aggrieved by a decision refusing the issue or renewal, as the case may be, of a licence or the suspension or cancellation of a licence issued, may, within thirty days of the date of receipt of the written communication informing such person, of the refusal or the suspension or cancellation, as the case may be appeal against such decision to a Committee consisting of two officers of the Ministry of Health and Ministry of Education respectively and a person who shall be an Attorney-at-Law nominated by the Minister.

Appeals

(2) The decision on any appeal submitted under subsection (1) shall be made within sixty days of the receipt of such appeal and the person making such appeal shall be informed of the decision made on it, forthwith.

(3) Where the Committee considers it appropriate, it may hold such inquiry, prior to arriving at any decision on any appeal made to him under subsection (1).

(4) The decision of the Committee on any appeal made under this Section shall be final.

13. A licence shall not be transferable by the licensee to any other person.

License not transferable

14. (1) It shall be duty of the a licensee to notify the Provincial Commissioner of changes in circumstances relating to or affecting the provision of a child care service including, without limitation, a change of supervising officer or managerial officer.

Duty of a licensee

(2) Every member of the staff of child care service shall undergo medical examinations from time to time.

PART II

Child Day Care Services

General principles

15. The Child day care services shall be conducted under the following principles -

- (a) the best interests of a child are the paramount concern ;
- (b) child day care services shall be provided to child in a way that -
 - (i) protects the child ;
 - (ii) respects the child's dignity and privacy ;
 - (iii) promotes the child's health and wellbeing ; and
 - (iv) provides positive experiences for the child ;
- (c) child day care services shall be provided in a way that stimulates and develops the child's creative, emotional, intellectual, lingual, physical, recreational and social potentiality ;
- (d) parents shall have the primary responsibility for the upbringing, protection and development of children, and shall support in that role ;
- (e) child day care services shall be planned and provided in a way that -
 - (i) involves parents and other members of the community ; and
 - (ii) reflects the multicultural and multilingual nature of the community.

Inspection and monitoring of child day care centre

16. (1) For the purpose of ensuring compliance with the provisions of this Statute and the regulations and guidelines, the Provincial Commissioner or authorized officer would have the authority for the following ;

- (a) at any reasonable hour, enter any premises where a child day care service is being offered or provided and inspect the premises and monitor the provision of the child day care service.
- (b) require the production of any records or other documents relevant to the operation of the child day care centre and remove them temporarily for the purpose of examining them and making copies.
- (c) measure, test, photograph or film any part of the place or anything at the child day care centre ;
- (d) take anything, or a sample of or from anything, at the child day care centre for analysis or testing ;
- (e) operate equipment or facilities at the child day care centre or direct a person at the child day care centre to do so ;
- (f) seize anything that is or may afford evidence of a contravention of this Statute ; and

(g) direct the occupier of the child day care centre ; or a person at the child day care centre, to give the officer such assistance as the officer reasonably requires for compliance purposes.

(2) Where the Provincial Commissioner or authorized officer removes any records or other documents pursuant to subsection (1)(b), the Provincial Commissioner or authorized officer shall -

- (a) give to the person from whom those items were taken a receipt for those items ; and
- (b) return those items to the licence holder after they have served the purpose for which they were taken.

(3) The Provincial Commissioner shall, following an inspection and monitoring under subsection (1), provide the licence holder with a report of the results of the inspection and monitoring.

(4) Any person who refuses or fails to permit the Provincial Commissioner or authorized officer to enter any premises commits an offence.

PART III

General

17. (1) The Provincial Commissioner may, subject to such conditions as he may think delegate to an officer, such of his powers, functions and duties and such officer may exercise, discharge and perform such powers, functions and duties as are assigned to him.

Delegation of powers, functions and duties

(2) The Provincial Commissioner may, whenever he deems appropriate to do so exercise, discharge and perform all or any of the powers, functions and duties delegated to an officer.

18. Any person or body of persons who -

- 1) establishes a child day care centre without obtaining a license for the same or continue to operate as a child day care centre after the cancellation of a license ;
- 2) maintains or administers a child day care centre after the expiry of the validation period of the license under this Statute ; or
- 3) continues to operate as a child day care centre after the cancellation of its license ;

Establishment or maintenance of a child day care centre in contravention of the Statute to be an offence

shall be guilty of an offence under this Statute and shall on conviction after summary trial before a Magistrate be liable to -

- a) where such offence is being committed for the first time, a fine not exceeding twenty-five thousand rupees or to a term imprisonment of either description not exceeding a period of six months or to both such fine and imprisonment ; or
- b) where such offence is being committed for the second time or thereafter, to a fine not exceeding fifty thousand rupees or to a term of imprisonment of either description not exceeding a period of two years or to both such fine and imprisonment.

Failure to provide information or making any false statement to be an offence

19. (1) Any person who fails or refuses to submit any information or record required to be submitted under this Statute shall be guilty of an offence under this Statute and shall on conviction after summary trial before a Magistrate, be liable -

- (a) where such offence is being committed for the first time, to a fine not exceeding twenty five thousand rupees ; or
- (b) where such offence is being committed for the second time or thereafter, to a fine not exceeding fifty thousand rupees or to a term of imprisonment of either description not exceeding a period of six months or to both such fine and imprisonment.

(2) Any person who knowingly submits false information or knowingly makes any false or inaccurate statement in any record or application made under this Statute, shall be guilty of an offence under this Statute and shall on conviction after summary trial before a Magistrate, be liable -

- (a) where such offence is being committed for the first time, to a fine not exceeding twenty five thousand rupees ; or
- (b) where such offence is being committed for the second time of thereafter, to a fine not exceeding fifty thousand rupees or to a term of imprisonment of either description not exceeding a period of six months or to both such fine and imprisonment.

General penalty

20. Any person who acts in contravention of an provisions of this Statute or any regulations or guidelines made or issued thereunder, shall be guilty of an offence under this Statute, and be liable on conviction after summary trial before a Magistrate, to a fine not exceeding ten thousand rupees or to a term of imprisonment of either description not exceeding a period of three months or to both such fine and imprisonment.

Regulations

21. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the provisions of this Statute.

(2) Without prejudice to the generality of the powers conferred by the subsection (1), the Minister may make regulations for all or any of the following matters –

- (a) all matters in respect of which regulations are prescribed or authorized to be made under this Statute.
- (b) criteria for the admission of a child to the child day care centre ;
- (c) prescribing types of child day care service and making different provisions for or in respect of each of those types ;
- (d) prescribing matters in determining whether a particular person is a fit and proper person to provide or be involved in the provision of a child day care service or to associate with children, as the case requires.
- (e) prescribing the documents including criminal record checks and information to be provided by a person in connection with an application under this Statute.
- (f) regulating the staffing requirements for the provision of child day care services ;
- (g) prescribing requirements as to the health and safety of children during the provision of child day care services ;

- (h) regulating the building and other physical environment requirements for the provision of child day care services ;
- (i) regulating programmes of activities and equipment to be provided in child day care services ;
- (j) regulating the administration of child day care services, the records to be maintained and the returns to be made ;
- (k) prescribing fees payable in respect of matters under this Statute.
- (l) standards to be maintained by the child day care centres relating to -
 - (i) operational plan ;
 - (ii) staff training ;
 - (iii) care, learning and playing ;
 - (iv) safety of the children ;
 - (v) health of children ;
 - (vi) any special needs and disabilities of the children ; and
 - (vii) behaviour of the staff ;
- (m) information to be included in any report required to be submitted under this statute ; and
- (n) books and registers to be kept and maintained by the Provincial Commissioner and particulars to be entered therein.

(3) All regulations made by the Minister shall be published in the Gazette and shall be placed before the Northern Provincial Council within three months of such Gazetting and be approved by such Northern Provincial Council.

(4) Every regulation which is not approved by the Northern Provincial Council shall be deemed to be rescinded from the date of such disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation shall be deemed to be rescinded, shall be published in the Gazette.

22. The Provincial Commissioner may, from time to time issue guidelines to child day care centre for the efficient function.

Guidelines

23. (1) Any child day care centre which has been registered under any witten law and is being operated and maintained on the date of the coming into operation of this Statute shall, notwithstanding the provisions contained in Section 2 of the Statute, be permitted to continue to be operated and maintained as such from the date of the coming into operation of this Statute, for a period of six months.

Savings

(2) Prior to the expiry of the period of six months referred to in subsection (1), a child day care centre referred to in that subsection shall be required to make an application under Section 4 of this Statute for the registration of such child day care centre.

Tamil text to prevail in the case of inconsistency

24. In the event of any inconsistency between the Tamil and Sinhala texts of this Statute, the Tamil text shall prevail

Interpretation

In this Statute, unless the context otherwise requires -

“Child” means a person who is under five years of age, however, the age for an admission in the day care centre is between one to five years and in the case of a child less than one year, Provincial Commissioner may admit such child on the recommendation of a Committee consisting of -

- (a) Pediatrician ;
- (b) Probation Officer ; and
- (c) Family welfare officer ;

“Child day care service” means education and care provided to a child -

- (a) by a person other than a relative or guardian of the child ;
- (b) at a place other than the child's home ; and
- (c) in the course of a service for regularly providing education and care of child ;

“Minister” means the Minister of the Northern Province to whom the subject of Probation and Child Care Services is assigned ; and

“Person” includes anybody of persons corporate or unincorporated.