

Tanzania

Children's Homes (Regulation) Act

Chapter 61

Legislation as at 31 July 2002

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Children's Homes (Regulation) Act

Chapter 61

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[G.N. No. 405 of 1968; Act No. 4 of 1968]

An Act to make provision for the regulation of children's homes, and for purposes connected therewith.

1. Short title

This Act may be cited as the Children's Homes (Regulation) Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**child**" means a person under the age of eighteen years;

"**children's home**" means any premises other than an approved school, where five or more children being orphans or children whose relatives or guardians are unable or unwilling to care for them, are received to be cared for and maintained, either gratuitously or for payment, for a period of longer than seven days by a person who is not a relative or guardian of the children;

"**Commissioner**" means the Commissioner for Social Welfare;

"**licence**" means a licence to carry on a children's home issued under section 3;

"**Minister**" means the Minister responsible for social welfare;

3. Licensing of persons carrying on children's homes

- (1) The Commissioner shall be responsible for the issue in accordance with the provisions of this Act of licences authorising the holder of the licence to carry on a children's home on the premises specified in the licence.
- (2) A licence issued under this section shall—
 - (a) be issued free of charge;
 - (b) specify the maximum number of children who may at any one time be received into the home;
 - (c) subject to section 7, shall be valid for a period of two years and may from time to time be renewed;
 - (d) not be transferable.
- (3) Every application to the Commissioner for the issue or renewal of a licence under this section shall be in such form and contain such information as may be prescribed.

4. Issue and renewal of licences

- (1) Upon receipt of an application under subsection (3) of section 3, the Commissioner shall proceed to issue a licence to the applicant or renew the licence, as the case may be, in respect of the premises specified in the application unless he has reasonable grounds to believe—
 - (a) that the applicant is not a fit and proper person to carry on a children's home; or
 - (b) that for reasons connected with the construction, state of repair, accommodation, staffing or equipment the premises specified in the application are not fit to be used as a children's home.
- (2) Notwithstanding subsection (1), where upon the commencement of this Act any person is carrying on a children's home and applies in the proper manner for a licence under section 3 within ninety days of the commencement of this Act, the Commissioner shall proceed to issue to the applicant a licence in respect of the premises specified in the application but save as aforesaid all the provisions of this Act shall apply to the licence, the licensee and to the premises specified in the licence.

5. Offence to carry on or manage unlicensed children's home

- (1) Any person who carries on a children's home without being licensed in respect thereof under this Act commits an offence and is liable upon conviction to a fine not exceeding two thousand shillings.
- (2) Any person who manages or assists in the management of a children's home which no person is licensed to carry on commits an offence and is liable upon conviction to a fine not exceeding one thousand shillings.
- (3) This section shall come into operation six months after the commencement of this Act.

6. Inspection

The Commissioner and any person authorised in writing by him for the purpose, may at all reasonable times enter upon a children's home or any part thereof or upon premises believed upon reasonable grounds to be a children's home, for the purpose of inspecting the premises, the furniture and equipment thereof and the children resident therein and the arrangements made for their welfare.

7. Cancellation of licences

- (1) Where the Commissioner has reasonable grounds for believing that—
 - (a) the premises of a children's home are no longer fit to be used as a children's home;
 - (b) a children's home is being kept in an unclean or insanitary condition;
 - (c) the provision made for the health or welfare of children who have been received into a children's home is inadequate; or
 - (d) the licensee has failed to comply with any regulation made under paragraph (c), (d) or (e) of section 10,the Commissioner may, after giving the licensee the opportunity of being heard or making representations, by notice in writing require him before the date specified in the notice to remedy, to the satisfaction of the Commissioner the defects specified in the notice.
- (2) If the licensee fails to comply with the requirements of a notice under subsection (1) before the date specified therein, the Commissioner after calling upon the licensee to show cause why his licence should not be cancelled, may cancel his said licence.

8. Reason for decision to be given

The Commissioner on the application of a person whose application for the issue or renewal of a licence has been refused or a person whose licence has been cancelled, shall inform that person in writing without delay of the reasons for his decision.

9. Appeals

(1) Any person aggrieved by—

- (a) the refusal of the Commissioner to grant or renew a licence; or
- (b) the cancellation of a licence,

may, within thirty days after receiving from the Commissioner notification of his decision, appeal to the Minister whose decision shall be final.

(2) Where the Commissioner has cancelled a licence under section 7, the cancellation shall not have effect until the expiry of the period within which an appeal against such cancellation may be made or, if an appeal has been made, until the appeal has been determined:

Provided that, if the Commissioner considers that the health of the children resident in the children's home concerned may be endangered by their continued residence therein, he may direct, by notice in writing served on the holder of the licence, that the cancellation of the licence shall have effect on some earlier specified day.

10. Power to make regulations

The Minister may make regulations prescribing matters which are required or permitted to be prescribed or for carrying out or giving effect to the purposes and provisions of this Act and without prejudice to the generality of the foregoing may make regulations—

- (a) prescribing records to be kept by licensees under this Act;
- (b) requiring that returns be made and information be provided by licensees to the Commissioner;
- (c) prescribing a minimum standard of diet to be provided to children received into children's homes;
- (d) prescribing arrangements for the welfare and medical care of children received into children's homes;
- (e) regulating the staffing, accommodation and equipment to be provided at children's homes;
- (f) regulating the placing of children in foster homes by licensees of children's homes.

11. Amendment of **Cap. 335**

[Amends the Adoption of Children Act.]