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MOMBASA COUNTY BILLS, 2026

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THE MOMBASA COUNTY CHILDCARE FACILITIES BILL, 2026

A Bill for

AN ACT of the County Assembly of Mombasa to provide for the assessment, registration, licensing and management of childcare facilities in the county and for matters incidental thereto

ENACTED by the County Assembly of Mombasa, as follows —

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Mombasa County Childcare Facilities Act, 2026 and shall come into operation on the date of publication in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

"applicant" means any person or body corporate or unincorporated, a religious organisation or a non-governmental organisation applying for a licence under this Act;

"assessment" means a systematic collection, review and use of information about childcare programs to improve the wellbeing of a child in the childcare facility;

"assessor" means a quality assurance and standard officer deployed under section 15 of this Act;

"authorized officer" means an officer appointed under section 37 of this Act;

"best interests of the child" means the principles that prime the child's right to survival, protection, participation and development above other considerations and includes the rights contemplated under Article 53 (1) of the Constitution and section 8 of the Children's Act, No. 29 of 2022;

"board" means the Board established under section 5 of this Act;

"Childcare" means the supervision and care of a child or children, typically by an individual other than a parent or guardian;

"care and control" with respect to a child, means all rights and duties which relate to the making of the day-to-day decisions concerning the welfare of the child, and includes actual custody of a child;

"care giver" means an individual who takes care of the children while in the childcare facility;

"child" means an individual who has not attained the age of five years;

"child abuse" includes—

(a) the infliction of physical harm by any person on a child;

(b) the infliction or inducement of physical harm by any person on a child by acts intended to cause harm or negligent acts or omissions that cause harm;

(c) the failure by any person to protect a child from physical harm or to report a case of child abuse;

(d) act or omissions that affects a child's healthy social and emotional development and functioning including—

(i) rejection;

(ii) isolation, including depriving the child of normal social interaction with others;

(iii) deprivation of affection or cognitive stimulation; or

(iv) inappropriate criticism or comparison with other children, discrimination, humiliation, threats, or malicious accusations, directed at a child;

(e) the exposure of a child to emotionally, traumatic and age-inappropriate content, information and photos of any kind;

(f) engaging a child in child sex tourism and child trafficking;

(g) dissemination to a child of any material, information, education or health services that promotes, induces, condones, or normalizes sexual activity or behaviour among children or with children; or

(h) any other similar acts calculated to cause physical, emotional, economic or psychological injury to the child;

"childcare facility" means a licensed institution under this Act at which for the time being, of at least one child up to the age of five years is received and cared for regularly for reward including a children's day care centre, nursery or other similar establishment;

"childcare provider" is any person, their agents or representatives operating a childcare facility and responsible for the care and wellbeing of children in all contexts;

"custody" means lawful custody, whether by operation of law, written agreement or order of a Court of competent jurisdiction;

"county" means the Mombasa County as established under Article 176 of the Constitution;

"county assembly" means the County Assembly of Mombasa as established under Article 185 of the Constitution;

"county chief officer" means the County Chief Officer responsible for matters relating to education or for the time being entrusted with the Administration of this Act;

"county executive member" means the County Executive Committee Member responsible for matters relating to education or for the time being entrusted with the Administration of this Act;

"department" means the County department responsible for matters related to education;

"director" means the director of quality assurance responsible for safer city operation as established under section 9 of this Act;

"essential facilities" includes clean water, lighting, security, waste disposal, shades, warehousing and storage, awnings, paved roads and vehicle parking spaces where necessary;

"home based childcare" means a form of paid or unpaid non parental or non familial childcare of at least one child that takes place in the care provider's home or dwelling on a regular basis;

"license" means a licence issued by the Department under this Act to operate a facility and includes a provisional licence;

"licensee" means an individual(s) or a body corporate who holds a licence issued under this Act;

"obstruction" means a refusal to allow an authorised officer to enter, inspect or interview any person in a childcare facility or interferes in any way with the work of such officer or fails to produce any report or records or conceals any information about the childcare facility.

"program" means the activities planned to help the Children's physical, social, emotional and learning development;

"safer city" means a zone established by the department to foster environments' essential facilities where children can grow and thrive safely; and

"staff" means childcare givers, centre managers and all other employees in the childcare facility employed by the licensee.

Objects

3. The object of this Act is to—

(a) give effect to the county's obligations concerning the wellbeing of children in accordance with the Constitution of Kenya, 2010;

(b) provide a framework that supports the management, registration, licensing and assessment of childcare facilities;

(c) provide a framework that enhances the quality and efficiency of childcare facilities that upholds the best interest of every child;

(d) commit every individual adult to take responsibility to protect the rights of every child regardless of their relationship with the child; and

(e) allow for periodic assessment of childcare facilities to ensure compliance with provisions of this Act.

Obligations of the county government

4. All entities in this Act shall, in performing their functions under this Act, the county government shall—

(a) formulate and implement policies on the regulation of childcare facilities;

(b) establish and manage the childcare facilities;

(c) register and regulate the childcare facilities; and

(d) enforce norms and standards and quality assurance and standards in childcare facilities.

PART II— GOVERNANCE AND MANAGEMENT OF SAFER CITY

Management of safer city

5. (1) The management of safer city shall be vested and administered on its behalf by —

(a) a board constituted in accordance with provisions of this Act;

(b) a director appointed pursuant to section 9 of this Act; and

(c) such other officers of the department seconded to the board.

(2) The governance and management of safer city shall be in accordance with the law relating to county governments.

Principles of governance and management

6. The governance and management of safer city shall be based on the following principles—

(a) recognition of the principal and agency relationship between the board of safer city and its respective department including—

(i) carrying out by a board of such functions as may be delegated by the department;

(ii) financial accountability to the department; and

(iii) governance by the board for and on behalf of the county.

(b) promotion of accountability to the county residents of the safer city;

(c) institutionalised active participation by its residents in the management of the safer city affairs;

(d) efficient and effective service delivery; and

(e) clear assignment of functions.

The safer city board

7. (1) The board shall consist of not more than nine members of whom shall be appointed by the county executive member.

(2) Of the members referred to in subsection (1), the county executive member shall appoint the following—

(i) county chief officer or representative;

(ii) county chief officer responsible for finance or representative;

(iii) one representative of an umbrella body representing private childcare facilities associations in the county;

(iv) one representative of civil societies organizations and networks operating in the county dealing with childcare facilities;

(v) one representative of registered associations of the home based childcare;

(vi) one representative from the state department of children's services;

(vii) one representative from the county department of health;

(viii) one person resident in the county appointed, among persons who have knowledge and experience in childcare facilities, to represent the marginalized and vulnerable group; and

(ix) one parent representative who is a resident in the county.

(3) The board shall co-opt a director seconded from the department who shall be an *ex-officio* member and the secretary to the board.

(4) A person shall not be appointed a member of the board unless that person—

(a) is a citizen of Kenya;

(b) is ordinarily resident or has a permanent dwelling in the county;

(c) has lived in the county for at least five years;

(d) has knowledge and/ or experience of not less than three years in any of the following fields —

(i) health;

(ii) early childhood development;

(iii) child welfare; and

(iv) Social work;

(e) meets the requirements of Chapter Six of the Constitution.

Chairperson of the safer city board

8. (1) A chairperson for the safer city board shall be elected from among persons under section 7 (2) during the first meeting of the board, and the election shall be presided over by the director.

(2) To be eligible for election as chairperson of the board, a person shall not be qualified for election as a chairperson of the board unless such person—

(a) is a citizen of Kenya;

(b) holds a degree from a university recognised in Kenya or its equivalent;

(c) has had at least five years relevant professional experience;

(d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(3) Subsequently, whenever a vacancy arises and the chairperson shall be of opposite gender.

(4) The chairperson shall—

(a) be the head of the board;

(b) chair meetings of the board;

(c) perform such duties as may be delegated by the board.

(5) A member of the board shall, in the absence of the chairperson, perform the functions of chairperson and shall perform such other functions as may be delegated by the chairperson or the board.

Director of safer city

9. (1) The Director of safer city shall be appointed and seconded to the board by the county chief officer to serve as the secretary to the board.

(2) The director shall be responsible to the chairperson of the board and the board for the general working and efficient conduct of business of the board.

(3) A person is appointed as the director if the person—

(a) is a citizen of Kenya;

(b) holds a degree from a university recognised in Kenya or its equivalent;

(c) has had at least five years relevant professional experience; and

(d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(4) The Director shall be—

(a) the administrative head of the board;

(b) the accounting officer of the board;

(c) responsible for the execution of the decisions of the board;

(d) the preparation and submission of the programmes necessary for the achievement of the board's mandate for approval by the board;

(e) the custodian of the board's records of all the proceedings and minutes of the meetings of the board and such other records as the board may direct; and

(f) the performance of such other duties as may be assigned by the board or any other written law.

Term of office

10. (1) A person appointed under section 7 (2)(iii), (iv), (v), (vi), (vii), (viii) and (ix) by the county executive member shall serve for a term of three years on a part-time basis.

(2) A member of the board in subsection (1) shall not serve for more than two terms.

Vacation of office

11. (1) A member of the board shall cease to hold office if the member—

(a) is unable to perform the functions of the office by reason of mental or physical infirmity;

(b) is declared or becomes bankrupt or insolvent;

(c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;

(d) resigns in writing to the county executive member;

(e) without reasonable cause, the member is absent from three consecutive meetings of the board within one financial year;

(f) is found guilty of professional misconduct by the relevant professional body;

(g) is disqualified from holding a public office under the Constitution;

(h) in any particular case, the member fails to declare his or her interest in any matter being considered or to be considered by the board;

(i) engages in any gross misbehaviour or gross misconduct; or

(j) dies.

(2) A person may be removed from the office of chairperson or a member of the board on any of the grounds provided under subsection (1) (a), (b), (c), (e), (f), (g), (h), (i) and (j)—

(a) by the county executive member; and

(b) by the board, supported by the vote of at least two-thirds of the members of the board.

(3) The procedure for the removal or petition for removal of a chairperson under subsections (1) and (2) shall be provided by regulations.

Functions of the safer city board

12. The Board shall—

(a) approve registration certificates to qualified persons in both public and private childcare facilities;

(b) issue licences;

(c) advise the county executive member on the norms and standards and quality assurance and standards in childcare services and facilities;

(d) monitor the operation of facilities and ensure adherence to the prescribed standards;

(e) ensure the provision of safe, healthy environment, quality and appropriate childcare facilities;

(f) ensure the maintenance and security of County owned childcare facilities;

(g) ensure assessment, early intervention, evaluation and monitoring of childcare;

(h) provide for training and capacity building of childcare facility operators, childcare providers and assessors;

(i) maintain a database and information system of the administration by the board;

(j) prepare its budget and administer it as approved;

(k) monitor the implementation of childcare services, policies, programmes or plans; and

(l) do such other thing necessary for the discharge of its functions under this Act or as may be provided for by any written law.

PART III—ASSESSMENT, REGISTRATION AND LICENSING OF CHILDCARE FACILITIES

Registration and licensing of a childcare facility

13. A person who intends to operate or maintain a childcare facility shall apply for registration and licensing of a childcare facility to the board in accordance with this Act.

Application for registration

14. (1) A person shall be required to make an application to the director of the board in the prescribed form under the First Schedule of this Act.

(2) On receipt of the application referred to in subsection (1), the director shall forward the application under subsection (1) to the board.

(3) An applicant shall pay a non-refundable application fee as prescribed under Fourth Schedule of this Act.

(4) Within thirty (30) days of receipt of the application under subsection (1), the board shall carry out an assessment of the proposed facilities with a county team of authorised officers from—

(i) Health;

(ii) Education;

(iii) Disaster Management;

(iv) Environment,

(v) Land, housing and planning; and

(vi) Transport and Infrastructure.

(5) During the assessment referred to in subsection (4), the board shall conduct an interview to assess the applicant and the suitability of the persons proposed to be employed in the childcare facility.

(6) The board shall, in their subsequent quarterly meetings, deliberate on all the assessment reports and applications made during such a period for approval when satisfied that all the requirements for registration have been met.

Assessment

15. (1) There shall be assessors from the department assigned by the director to carry out assessment for the purpose of this Act.

(2) A person shall not be qualified for appointment as an assessor under this Act unless such a person—

(a) is a Kenyan citizen;

(b) holds at least a diploma in a relevant field from an institution recognised in Kenya;

(c) has at least 5 years relevant work experience; and

(d) meets the requirements of chapter 6 of the Constitution.

(3) An assessor shall—

(a) inspect a facility in respect of which an application for a certificate is made; and

(b) make periodic assessments of a facility.

(4) An assessor may enter and carry out an investigation in respect of any facility where the board has reasonable grounds to suspect that the facility is operated in contravention of this Act.

(5) The functions and powers of the authorised officer appointed under this section shall be supplementary to and not in derogation of the functions and powers conferred to the board.

Assessment of facilities

16. (1) An assessment shall be carried out in every childcare facility at least twice in every financial year.

(2) Any authorised officer acting in accordance with provisions of this Act may at all reasonable times, enter, after producing, if asked to do so, some duly authenticated document showing that one is so authorised to enter, any childcare facility or premises aforesaid and shall in particular—

(a) interview any staff or licensee in the premises;

(b) require the production of an annual report and any records required to be kept in accordance with this Act;

(c) inspect the conditions and facilities provided by the licensee or staff of the premises; and

(d) prepare and submit a report to the director outlining findings and recommendations.

Assessment report

17. The director shall, within one month of the submission of the assessment report(s) by the authorised officer, report to the board on the action to be taken to ensure compliance with this Act.

(2) The assessment report(s) referred to in subsection (1) shall include—

(a) quality assurance and regulatory compliance reports which ensure that the childcare facility meets licensing requirements, health and safety standards, and quality benchmarks set by this Act;

(b) weekly or monthly progress reports which provide a snapshot of a child's activities, behaviour, meals, naps, and any notable events during their time at the childcare facility to keep parents informed about their child's daily experiences and routines;

(c) any other assessment report necessary for compliance of this Act or as may be provided for by any written law.

Approval and Validity of a Licence

18. (1) A childcare facility shall be approved if the board is satisfied by such evidence as may reasonably require that—

(a) the childcare facility has adequate health and safety measures to help protect the child from injury, illnesses or spread thereof;

(b) the applicant and staff have a certificate from a recognised institution or skills in childcare or early childhood development;

(c) the applicant meets the standard of the child-staff ratio and the number of children allowed in a class (group size);

(d) the applicant has satisfied the safety and condition of the building such as —

(i) emergency exits and safety measures,

(ii) adequate ventilation,

(iii) lockable doors and windows,

(iv) ablution blocks suitable for use by children,

(v) adequate furniture suitable for use by children, and

(vi) age appropriate play equipment.

(e) the applicant has an approved Program management; and

(f) the childcare facility complies with all county and national laws.

(2) The board shall register a childcare facility based upon the written assessment report submitted by the director, if satisfied that—

(a) the applicant is an adult and deemed fit to manage the facility;

(b) the applicant has not been alleged or convicted of any offence;

(c) where the applicant is a company, firm or other organization, none of its directors or members, has been alleged or convicted of an offence;

(d) none of the persons to be employed by the applicant in the facility has been alleged or convicted of an offence.

Fees

19. A successful applicant shall pay a registration or assessment or licence or other fees as prescribed under Fourth Schedule of this Act.

Certificate of registration

20. (1) The board shall issue both the certificate of registration and licence to operate or maintain a child care facility upon approval on the application when satisfied that all the requirements for registration have been met.

(2) A person operating as a child caregiver shall apply for a licence as prescribed under Third Schedule of this Act

(3) A licence issued in subsection (1) shall be in the prescribed form and shall at the end of the period of twelve months beginning with the date of registration and annually thereafter, review the licence of the childcare facility.

(4) Every licence shall specify—

(a) the name and address of the facility;

(b) the owner(s)/ operator(s) of the childcare facility;

(c) the number of children authorized for care at the childcare facility;

(d) the expiration of any provisional licenses or licenses; and

(e) the type of care the childcare facility will be providing.

Denial of registration

21. (1) Where the board dismisses an application for a registration of a child care facility once the facility does not meet the requirements, the board shall forward their decision on the dismissal with reasons thereof to the county executive member.

(2) Any applicant dissatisfied with the decision of the board may appeal to the county executive member who will form a committee of three members to hear the appeal within fourteen days.

(3) Any applicant not satisfied with the decision of the committee may seek legal redress in a court of law.

Display of certificate

22. The certificate shall be displayed in a conspicuous place within the childcare facility.

Register

23. (1) The board shall keep a register of all childcare facilities.

(2) A register shall have particulars of all the children in a facility.

(3) The register shall bear the following details of each child at the facility—

(a) Name and date of birth of child;

(b) Date a child stopped to attend a facility;

(c) Name, address and telephone number of a parent or guardian of the pre-school child;

(d) Authority to pick a child;

(e) Details of any illness, disability, allergy or special need of a pre-school child, together with all the notes relevant to the provision of special care or attention;

(f) Name and telephone number of the pre-school child’s general practitioner;

(g) Record of immunizations, if any, received by the pre-school child; and

(h) written parental consent for appropriate medical treatment in the event of an emergency.

Renewal of a licence

24. (1) Upon expiry, a licence may be renewed for such further period not exceeding one year.

(2) A registered childcare facility issued with a licence may apply for renewal of the licence in the prescribed manner at least thirty days before the date of expiry of the licence.

(3) The county may extend the period within which an application for the renewal of a licence may be made, whether or not the period has ended or the licence has expired.

Cancellation or suspension of a licence

25. (1) The board shall have the power to renew any licence, and may decline to renew, revoke or suspend a licence for a period not exceeding twelve months if it is satisfied that the childcare facility is in breach of any provisions of this Act or any other written law.

(2) The board may cancel or suspend a licence in the following circumstances—

(i) where the owner(s)/ operator(s) of a childcare facility commits breach of any provisions of this Act or any other written law; or

(ii) where it is satisfied that such a childcare facility licence has been secured by the owner(s)/ operator(s) of the childcare facility through misrepresentation or fraud:

Provided that no such cancellation or suspension shall be made unless an opportunity of hearing has been given to the owner(s)/ operator(s).

(2) Before declining to renew, revoke or suspend a licence under subsection (2)(a), the board shall notify the holder of the licence to show cause, within fourteen days, why such licence should not be revoked, suspended or denied renewal.

(3) The board shall consider the application under subsection (3) within seven days and inform the holder of the licence of the decision in writing and shall give reasons for the cancellation or suspension.

(4) The owner/ operator of a childcare facility aggrieved by the decision of the board in the exercise of its powers under subsection (4) may

appeal to the county executive member who will form a committee of three members to hear the appeal within fourteen days.

(5) Any applicant not satisfied with the decision of the committee may seek legal redress in a court of law.

Revocation, alteration and suspension of a licence

26. (1) A certificate to operate a facility ceases to have effect when—

(a) the certificate expires;

(b) the board revokes the certificate for a justifiable reason; or

(c) the ownership of the facility changes.

(2) Under subsection (1), the board may revoke the certificate if—

(a) an offence under this Act or in respect of the licensed activity under any other written law, has been committed by the licence holder or any staff of the licence holder; or

(b) the childcare facility is not maintaining substantial compliance due to deficiencies which are so numerous, frequent or severe as to potentially jeopardize the health, safety and welfare of the children; or

(c) a condition of the licence has been contravened or not complied with.

(3) The revocation of a license nullifies and cancels the license.

(4) At the time of a final determination of revocation of the license by the board shall specify in the revocation letter the terms of the revocation.

(5) The licensee shall not be eligible to reapply for a license for a minimum of one (1) year or longer, if specified in the revocation order.

Surrender of licence

27. (1) The holder of a licence which is revoked shall immediately surrender the license to the board within 30 days of the revocation.

(2) A licence holder may, at any time, surrender the licence to the board and the licence shall cease to have effect forthwith.

Notice of change

28. (1) A certificate holder shall notify the board in writing of any transfer of the facility.

(2) The board may require a certificate holder to make an application of transfer in accordance with Second Schedule if this Act referred to in subsection (1) and issue another licence to the new owner.

Rights of parents

29. A parent in a childcare facility shall have the following rights—

(a) a right to enter the childcare facilities as needed while their child is present therein;

(b) a right to know the progress and welfare of the child in the childcare facility;

(c) a right to see the licence issued to the childcare facility displayed at a conspicuous place in the precincts of the facility;

(d) a right to provide food for their children if they so wish; and

(e) a right to know the existing daily routines in the childcare facility.

Rights of childcare givers

30. A childcare giver in a childcare facility shall have the following rights—

(a) a right to receive fair wages for their work, commensurate with their skills, experience, and the responsibilities involved in caring for children;

(b) a right to safe working conditions free from hazards that could endanger his or her health or well-being;

(c) a right to be treated with respect and dignity by employers, colleagues, and families they work with;

(d) a right to legal protections against discrimination based on factors such as age, ethnicity, gender or religion;

(e) a right to healthcare benefits, sick leave, and other employment benefits;

(f) a right to privacy and confidentiality regarding their personal information and any information they obtain about the children and families they care for;

(g) a right to work-life balance where one has reasonable work hours and breaks to ensure individual's well-being and to prevent burnout;

(h) a right to access resources and support to help them improve their skills and knowledge in childcare;

(i) if employed under a contract, one has the right to have the terms and conditions of employment clearly outlined and respected by both parties; and

(j) a right to work in an environment free from all forms of abuse.

PART IV— FINANCIAL PROVISONS

Funds of the safer city board

31. (1) The funds of the safer city board shall consist of—

(a) monies allocated by the National or County Government for purposes of the childcare development;

(b) any grants, gifts, donations or other endowments given to the safer city board;

(c) such funds as may vest in or accrue to the safer city board in the performance of its functions under this Act or any other written law; and

(d) any monies obtained by way of fees, levies or other charges.

(2) Any funds donated or lent to, or gift made to the childcare facilities shall be approved by the department before use.

Appropriations in Aid

32. (1) There shall be applied by the board, for the several services and purposes within the childcare facilities, the sums specified out of any money directed to be applied as appropriations in aid under Article 207 (2)(b) of the Constitution.

(2) For purposes of use as appropriations in aid, the board shall operate a bank account in which the director will be a mandatory signatory and shall account for such monies in the county annual budget.

(3) The County Treasury shall facilitate the opening and maintenance of a bank account for purposes of operationalizing conditional grants, donations and any other monies for the childcare facilities in the county in line with the Constitution and the Public Finance Management Act, 2012.

Annual estimates

33. (1) At least three months before the commencement of each financial year, the director shall cause to be prepared estimates of the revenue and expenditure of the childcare facilities for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the childcare facilities for the financial year concerned and, in particular, shall provide for the—

(a) payment of allowances as per Salary and Remuneration Commission guidelines in respect of the board members and secretariat;

(b) development and maintenance of the buildings and grounds of the childcare facilities; and

(c) any other expenditure necessary or purposes of this Act.

(3) The annual estimates shall be approved by the county executive member before the commencement of the financial year to which they relate.

Accounts and audit

34. (1) The director shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the board.

(2) Within a period of three months after the end of each financial year, the director shall comply with the relevant audit procedures and submit the accounts of board in respect of that year together with a—

(a) statement of the income and expenditure of board during that year; and

(b) statement of the assets and liabilities of the board on the last day of that financial year.

(3) The accounts of the institution shall be audited and reported upon in accordance with the Public Audit Act, 2003 (Cap. 412B).

(4) The director shall furnish the county executive member with a certified copy of the audited annual statement of accounts and such other information about the revenue, expenditure, assets and liabilities of the institution as he or she may require.

Annual reports

35. (1) The director shall, at the end of each financial year cause an annual report to be prepared.

(2) The director shall submit the annual report to the county executive member three months after the end of the year to which it relates.

(3) The annual report shall contain in respect of the year to which it relates—

(a) the financial statements of the board;

(b) description of activities of the board;

(c) such other statistical information as the board may consider appropriate relating to the childcare facilities' functions;

(d) the impact of the exercise of any of its mandate or function;

(e) any impediments to the achievements of the objects and functions under the Constitution, this Act or any written law; and

(f) any other information relating to its functions that the director considers necessary.

PART V—MISCELLANEOUS

Enforcement

36. The enforcement of this Act shall be carried out in a manner that—

(a) recognizes and respects the right to property and privacy;

(b) supports and encourages compliance with the Act;

(c) promotes trade and business operations; and

(d) respects and observes the rule of law and fundamental rights.

Authorised officers

37. (1) The county chief officer shall assign persons to be authorized officers for the purposes of this Act;

(2) Notwithstanding the provisions of subsection (1), all officers seconded to the board by the department and any other county public officer who for the time being referred to as an enforcement officer shall be authorized officers for the purposes of this Act; and

(3) An authorized officer shall be responsible for ensuring compliance with this Act.

Offences

38. A person who—

(a) commits a breach of any condition imposed by any licence issued under this Act;

(b) aids or abets another person to commit a breach of any condition imposed by under any licence issued under this Act;

(c) forges or through fraud obtains any document with intent to have a licence issued or renewed;

(d) takes advantage of his or her position and induces or seduces a child in their care to have sexual intercourse with him or her or commits any other offence under the Sexual Offences Act, 2014, such sexual intercourse not amounting to the offence of rape or defilement;

(e) has been convicted of a sexual offence and who fails to disclose such conviction when applying for employment in a childcare facility;

(f) knowingly employs a convicted sexual offender in a childcare facility; or

(g) obstructs an authorized officer in carrying his or her duties under this Act,

commits an offence and on conviction shall be liable to a fine of not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or to both.

General penalty

39. A person convicted of an offence under this Act for which no penalty is provided for shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

Regulations

40. (1) The county executive member may make regulations generally for the better carrying into effect any of the provisions of this Act.

(2) The county executive member may, taking into account any national or county policies, standards or regulations applying to all childcare facilities—

(a) regulating the use of childcare facilities;

(b) preventing nuisances and obstructions in childcare facilities, and for maintaining cleanliness therein and on the approaches thereto; and

(c) maintaining order and preventing disturbances in childcare facilities.

(3) Notwithstanding the generality of this Act, Regulations may provide for the-

(a) prescribed forms;

(b) prescribed fees;

(c) anything required to be prescribed under this act;

(d) the terms and conditions for the issuance of childcare facilities licences;

(e) the conditions for the maintenance of the register of childcare facilities in the county;

(f) process of determination of an application for childcare facilities licences;

(g) the conditions for the issuance or renewal of a licence under this Act;

(h) process of application for the renewal of licences, de-registration and revocation of a licence issued to an applicant under this Act; and

(i) any other matter necessary for the implementation of this act.

(4) For the purpose of Article 94(6) of the Constitution—

(a) the purpose and objective of the delegation under this section is to enable the county executive member to make regulations to provide for the better carrying into effect the provisions of this Act;

(b) the authority of the county executive member to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section; and

(c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act (Cap. 2) and the Statutory Instruments Act (No. 23 of 2013).

Protection from liability

41. Nothing done by a person exercising authority or power under this Act shall, if the matter or thing was done or omitted in good faith for the purpose of executing this Act or any rule, regulation or order made under this Act, subject such a person in his personal capacity to any action, suit, claim or demand whatsoever.

PART V— TRANSITIONAL PROVISIONS

Repeal

42. (1) The Mombasa County Child Care Act, 2016 is repealed.

(2) Without prejudice to the generality of the application of section 3 of the Interpretation and General Provisions Act, the transitional provisions set out in the Part VI shall have effect upon the commencement of this Act.

Existing childcare facilities

43. All childcare facilities established before the coming into operation of this Act are deemed to have been established under this Act, and all regulations, rules, orders or by-laws made under any other law in

force at the time of the commencement of this Act shall be deemed to have been made under this Act, and shall remain in force until other provisions are made in accordance with this Act.

Preservation of licenses, certificates and registration

44. Any register kept, registration effected, certificate issued, notice or information given, form used or other thing done with respect to institutions set out in section 43 on the commencement of this Act, was in force or effect shall continue in force and have effect as if kept, effected, issued, given, made or done under the provision of this Act.

Transfer of assets, liabilities and staff.

45. (1) All immovable and movable property which immediately before the commencement of this Act were vested in, or possessed by the childcare facilities set out in section 43 shall by virtue of this section vest in the respective childcare facilities established under this Act without further conveyance, transfer or assignment.

(2) All rights, obligations and liabilities which immediately before the commencement of this Act were vested in or imposed on the childcare facilities set out in section 43 are deemed to be the rights, obligations and liabilities of the respective institutions established under this Act.

(3) All references to the childcare facilities established as set out in section 43 in any agreement or instrument relating to any property, assets, rights, privileges, immunity, obligations or liabilities transferred under subsection (1) and (2) and subsisting immediately before the commencement of this Act, shall, unless the context otherwise requires, be read as references to the respective childcare facilities established under this Act.

(4) All persons who were members of staff of the childcare facilities set out in section 43 shall be members of staff of respective childcare.

FOURTH SCHEDULE

[Section 19.]

COUNTY GOVERNMENT OF MOMBASA

1. I/We hereby apply for..... (*Specify the licence or certificate of registration for which the application is made*).

2. (a) Name of applicant .....

(b) Nationality .....

ID No. / Passport No. .....

(c) (i) Postal address .....

(ii) Email .....

(iii) Telephone No. .....

(d) Business Location: Name of Building/ Place.....
L.R. No. ..... Sub-Count……...…..Ward….....……
Town…….…… Street/building ……...……..

3. Details of childcare facility:

(a) (i) Name of childcare facility
.....

(ii) Type of childcare facility (Nanny/ Home-based childcare /Corporate creches/Private childcare centres/ Private ECD centres/ Others).

.....

(iii) Date of Construction .....

(b) (i) Will the childcare facility be exclusively used by you or will it be shared by the other licenced childcare givers .....

Will/Will not be shared.

(ii) If childcare facility will be shared with other licenced childcare givers, please state the number of those childcare givers

.....

(c) Details of staff:

(i) Total Number of staff .....

(ii) Name of Centre Manager .....

4. Details to be supplied by corporate body applicants

(a) Name of company/ organization

.....

.....

(b) Number of certificate of incorporation or registration of business .....(*Please attach copy*)

5. I/We declare that the particulars and information as supplied by me/us herein are true, accurate and correct in every respect. I/We understand clearly that discovery of any false information provided by me/us will render this application invalid.

Signature ..... Date .....

NAME (*of Signatory*) .....

POSITION (*in the business*) .....

SECOND SCHEDULE

[Section 28(2).]

COUNTY GOVERNMENT OF MOMBASA

APPLICATION FOR TRANSFER OF CERTIFICATE OR REGISTRATION OF CHILDCARE FACILITY

Form CCF/1B

I/ We .....
of address .....

hereby authorize the transfer of ownership of certificate of registration of Childcare facility No. .....to .....of address .....

Reasons for transfer

.....

.....

Signed .....

Witness .....

Date .....

FOR OFFICIAL USE ONLY

Comment/Decision of Licensing Officer .....

.....

.....

Note.—This application must be submitted together with appropriate application for certificate or registration duly completed by a person or institution to whom the transfer is to be made.

THIRD SCHEDULE

[Section 19.]

COUNTY GOVERNMENT OF MOMBASA

CHILDCARE CAREGIVER'S LICENCE

Form CCF/L1

Name ..... ID. No. .....of

(address) ..... is hereby authorised to give childcare

at.....childcare facility Sub-

County……..Ward……...……

Town……...… Street/building ……..

subject to compliance with the provisions of the Mombasa County Childcare Facilities Act, 2026 made thereunder, and contingent to conditions specified hereunder:

.....

.....

.....

.....

.....

Fees paid ..... Date of issue .....

This childcare caregiver's licence expires on 31st December, ...

.....

Director/ Board Secretary

FOURTH SCHEDULE

[Section 19]

COUNTY GOVERNMENT OF MOMBASA

FEES FOR ASSESSMENT, REGISTRATION. LICENCE AND OTHER CHARGES

		KSh.
	Application Fee (non- refundable)	2,000.00
	Provisional registration fees	5,000.00
	Tier 1: Charge fees below Ksh. 20,000 per annum, per child	7,000.00
	Tier 2. Charge fees between Ksh. 20,001 and 45,000 per annum, per child	17,500.00
	Tier 3.: Charge fees above Ksh. 45,000 per annum, per child	35,000.00
	Charges for Home-based childcare	
	Application Fee (non-refundable)	200.00
	Registration Fee	1,000.00
	Annual License	1,000.00

MEMORANDUM OF OBJECTS AND REASONS

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

Clause 43 of the Bill delegates legislative powers to the county executive member for the purpose of giving effect to the provisions of the Act. The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Part 2 of the Fourth Schedule to the Constitution designates childcare facilities as one of the functional areas of the County government. The Bill affects the powers and functions of the County government, and it is therefore, a Bill that concerns counties in terms of Article 110 (1)(a) of the Constitution.

Statement that the Bill is not a money Bill

This Bill is not a money Bill within the meaning of Article 114 of the Constitution and Section 21 of the County Governments Act (No. 17 of 2012).

IBRAHIM OYUGI OMONDI,
Chairperson, Committee on Education