

THE HOMES FOR OLDER PERSONS ACT, 2000

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*Legal Supplement Part A to the "Trinidad and Tobago Gazette", Vol. 39,
No. 189, 2nd October, 2000*

**Fifth Session Fifth Parliament Republic of Trinidad
and Tobago**



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 38 of 2000

[L.S.]

AN ACT to provide for the licensing, regulation and
control of Homes for Older Persons

[Assented to 26th September, 2000]

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

PART I

PRELIMINARY

1. This Act may be cited as the Homes for Older Short title
Persons Act, 2000.

Commencement **2.** This Act shall come into force on a date to be fixed by the President by Proclamation.

Interpretation **3.** In this Act—

“Board” means the Older Persons Care Board established under section 4;

“Division” means the Division of Aging established in the Ministry of Social and Community Development;

“Home for Older Persons” means a house or other premises used as a place for the care and housing of older persons whether for reward or not;

“Home” means a house or other premises established for the express purpose of caring for and housing older persons, whether for reward or not;

“Facility Review Team” means a team within the division of Aging appointed by the Minister and authorised to inspect Homes for Older Persons;

“licence” means a licence issued under this Act to operate a Home for Older Persons;

“licensee” means a person who is licensed to operate a Home for Older Persons;

“Manager” means a person who has the overall responsibility for the day to day running of a Home for Older Persons;

“Minister” means the Minister to whom is assigned the responsibility for the Ministry of Social and Community Development;

“medical practitioner” means a registered member of the Medical Board of Trinidad and Tobago;

“nurse” means a person whose name is on the Register of Nurses kept by the Nursing Council of Trinidad and Tobago; and

“older person” means a person who is sixty years old and over.

PART II

HOMES FOR OLDER PERSONS

4. (1) There is hereby established an Older Persons Care Board (hereinafter referred to as “the Board”).

Establishment of
Older Persons Care
Board

(2) The Board shall consist of a Chairman, a Deputy Chairman and ten other members appointed by the Minister as follows:

- (a) a Quality Control Officer;
- (b) two officers attached to the Ministry of Health, one of whom shall be the Manager of Nursing Services and the other, a Nutritionist/Dietician;
- (c) a medical practitioner who specializes in geriatric care;
- (d) a Principal Medical Officer of Community Services;
- (e) a nutritionist or dietician;
- (f) a social worker with experience with geriatric care;
- (g) a social psychologist;
- (h) an occupational therapist; and
- (i) a senior officer of the Division of Aging.

(3) Every appointment shall be for a term of three years but may be revoked by the Minister for any reasonable cause before the expiration of that term.

(4) A person who has a financial interest in a private hospital or a private home for the care of older persons shall not be eligible for membership on the Board.

(5) If the Chairman is unable to perform the functions of his office owing to his absence from Trinidad and Tobago or to inability for any reason, the Deputy Chairman shall act as Chairman during the time the absence or inability continues.

(6) At a meeting of the Board from which the Chairman is absent the Deputy Chairman shall act as Chairman.

(7) The Chairman, or Deputy Chairman in the absence of the Chairman, and five other members shall form a quorum.

(8) The powers of the Board shall be exercisable notwithstanding any vacancy in its number or any defect with regard to the appointment of any of its members.

(9) The Board shall meet at least quarterly, and, subject to this Act, shall regulate the procedure to be followed at its meetings.

Functions of Board

4A. The Board shall be responsible for—

- (a) advising the Minister on all matters relating to the care of older persons, the administration of the Act and standards to be observed in the care of older persons; and
- (b) guiding and assisting the Division on the implementation of the Act.

5. (1) Every licence for a Home for Older Persons Classes of Homes for Older Persons shall specify the number of clients to be served and the level of care to be provided in accordance with the Client Classification Manual published by the Ministry.

(2) The licensee of every home for Older Persons shall—

(a) provide skilled nursing care and supervision under the direction of a physician;

(b) be responsible for the protection, storage and disposal of medication in accordance with the provisions of the Pharmacy Board Act; and

Chap. 29:52

(c) ensure that where a registered nurse or physician is not resident at the Home, their services can be readily available if a resident is in need of such.

PART III

LICENSING OF HOMES FOR OLDER PERSONS

6. (1) The Minister may, subject to this Act, grant a Licensing of Homes licence for the use of any premises as a Home for Older Persons.

(2) No person shall establish, conduct, maintain, or use any premises as a Home for Older Persons in Trinidad and Tobago without a valid licence issued by the Minister under this Act.

(3) A person who contravenes subsection (2) commits an offence.

(4) Where premises are used as a Home for Older Persons in contravention of subsection (2), the occupier and all persons concerned in the management of the Home or in the admission thereto or treatment of any person therein commits an offence.

(5) Each licence shall be issued only in respect of the premises and persons named in the application.

(6) If during the period in which a licence is in effect, a licensed operator which is a partnership, limited partnership or corporation, undergoes any of the following changes, or a new corporation, partnership or limited partnership or other entity assumes operation of a facility whether by one or by more than one action, the succeeding operator shall within ten working days of such change apply for a new licence—

- (a) with respect to a partnership, a change in the majority interest of general partners;
- (b) with respect to a limited partnership, a change in the majority interest of general partners;
- (c) with respect to a limited partnership, a change in the general partner or in the majority interest of limited partners;
- (d) with respect to a corporation, a change in the persons who own, hold or have the power to vote the majority of any class of securities issued by the corporation.

(7) A licence granted under this section shall be valid for two years.

Licence requirements

7. (1) A person who wishes to operate a Home for Older Persons shall submit to the Division of Aging in the prescribed form the following:

- (a) information or financial records demonstrating that the applicant has adequate funding to operate the home;
- (b) the name, address and type of licence of all other long-term care facilities owned or operated by either the applicant or by the

owner of the facility for which the application is being submitted;

- (c) evidence that equipment to be used in the home meets the minimum standards required by the regulations;
- (d) information relating to proposed staffing arrangements including—
 - (i) number of staff;
 - (ii) type of staff;
 - (iii) skill of staff;
- (e) information relating to the administrative structure and management systems in place for the provision of safe care; and
- (f) evidence of liability insurance in the sum of one hundred thousand dollars.

8. (1) An application for a licence to operate a Home for Older Persons shall be made in writing to the Division of Aging. Application for licence

(2) An application made under subsection (1) shall contain the particulars set out in the First Schedule.

(3) Every application shall be accompanied by a non-refundable fee.

- 9.** (1) A licence shall not be granted unless— Conditions of grant of licence
- (a) the Home, its location with regard to neighbouring premises and its proposed facilities and equipment are assessed by a Facility Review Team and found suitable for the purpose indicated in the application; and
 - (b) the Minister is satisfied as to the character and fitness of the applicant.

(2) The Division of Aging may within two months of receiving an application under section 8 issue or refuse a licence.

(3) The Minister may by Order amend the First and Second Schedules by adding to or deleting any of the particulars including the classes of Homes or by varying the fees specified therein.

Granted licence

10. (1) Every licence for a Home for Older Persons shall specify the nature of the services the Home provides.

(2) A person to whom a licence is granted shall post the licence in a conspicuous place on the licensed premises.

(3) Every licence issued shall state—

- (a) the type of facility for which the licence is granted;
- (b) the maximum resident capacity for which the licence was granted;
- (c) the name of the person to whom it was granted;
- (d) the date of issue;
- (e) the expiration date;
- (f) any special limitations imposed on the licence; and
- (g) any additional information and special limitation which the Minister may by Regulations require.

Renewal of licence

11. (1) The Minister may renew the licence of any Home for Older Persons if he is satisfied that—

- (a) the Home is operated in accordance with the provisions of this Act and the Regulations made under it;

- (b) the Facility Review Team has conducted a quality review assessment of that Home and it is satisfied that the standards of care established by the Minister have been complied with; and
- (c) the licensee has paid the prescribed licence fee.

(2) Subject to subsection (1), a licence shall be renewed on the anniversary date of its issue.

(3) The Minister may refuse to renew the licence of any Home for Older Persons if the licensee does not comply with the requirements of subsection (1).

(4) A person who displays a licence which has not been renewed or which has been revoked, commits an offence.

12. In establishing standards for each type of facility, the Division shall classify the standards into the following categories: Categories of standards

- (a) Class I standards are standards the violation of which would present either an imminent danger to the health, safety or welfare of any resident or a substantial probability that death or serious physical harm would result;
- (b) Class II standards are standards the violation of which have a direct or immediate relationship to the health, safety or welfare of a resident, but which do not create imminent danger;
- (c) Class III standards are standards which have an indirect or potential impact on the health, safety or welfare of a resident.

Penalties

13. A person who commits an offence under this Act is liable on summary conviction either—

- (a) to a fine of ten thousand dollars;
- (b) in the case of a continuing offence, to a fine of two hundred dollars for every day during which the offence continues; or
- (c) to imprisonment for a term of twelve months.

Revocation of licence

14. (1) A licence may at any time be revoked by the Minister if—

- (a) the licensee or Manager has been convicted of an offence under this Act, or wilfully neglects or refuses to comply with any of the provisions thereof, or obstructs, impedes or hinders any person carrying out any duties or responsibilities thereunder;
- (b) in the opinion of the Division of Aging the premises of the Home for Older Persons are unsanitary, unsafe or without proper fire protection, or the home is managed or conducted in a manner contrary to the Regulations or in such a manner that the revocation of the licence is required in the public interest; or
- (c) the licensee fails to comply with the standards set by this Act and the Regulations made under it.

(2) Before a licence is revoked, the Minister shall give notice to the licensee or Manager of the grounds on which it is proposed to revoke the licence and shall afford him an opportunity of showing cause why the licence should not be revoked.

Unlicensed premises

15. (1) No person shall operate a Home for Older Persons unless that home is licensed as such in accordance with this Act.

(2) A person who contravenes subsection (1) commits an offence.

16. Where a licence has been issued to two or more persons jointly and one of those persons dies leaving the other or others surviving during the currency of the licence, the licence shall remain in force and shall have the same effect as if it had been issued to the survivor or survivors. Death of joint holder of licence

17. Where the licensee or the sole surviving licensee of a Home for Older Persons dies, upon application by the Legal Personal Representative, beneficiary, or any other interested persons the Minister may, after considering the representations of the Administrator General, the character, fitness, financial status and any other relevant factor in relation to the applicant, grant a temporary licence to an applicant for a period not exceeding six months at a time and subject to such terms and conditions as are prescribed under this Act. Death of Licensee

18. (1) On an application in writing signed by the licensee and by any person to whom the licensee desires that his licence be transferred, the Minister may, if satisfied as to the character and fitness of that person, by endorsement on the licence or otherwise in writing, transfer the licence to that person. Transfer of licence

(2) Where the Minister transfers the licence in accordance with subsection (1), the person to whom the licence is transferred shall become the licensee of the Home for Older Persons with the same rights and obligations as if the licence had been issued to him in the first instance.

19. (1) A Home for Older Persons shall not be operated otherwise than in accordance with the terms of the licence issued in respect of it. Operation of Home for Older Persons restricted to terms of licence

(2) Where a Home for Older Persons is used in any manner contrary to subsection (1), the licensee and the Manager each commits an offence.

PART III

ADMINISTRATION

Division to establish standards

20. (1) The Division shall be responsible for establishing standards for care facilities and skilled nursing facilities and for ensuring that standards of care are implemented in Home for Older Persons.

(2) The standards shall take into account the level of care provided and the number and type of residents served by the Home.

(3) The Division shall establish standards in relation to—

- (a) the equipment, facilities, services and supplies essential to the health and welfare of the residents;
- (b) safety, fire protection and sanitation in the Home;
- (c) the provision of appropriate dietary supplies based on good nutritional practice;
- (d) the structural integrity of the building housing the Home; and
- (e) the quality of care of residents.

Establishment of policies and procedures

21. (1) The Minister shall be responsible for establishing the policies and procedures governing all areas of service in all Homes for Older persons.

(2) The licensee of each type of facility shall ensure that—

- (a) policies and procedures established by the Minister in accordance with subsection (1) are available to staff, residents and their families or legal representative and the public;

- (b) only those persons are accepted whose needs can be met by the facility;
- (c) as changes occur in their physical or mental condition necessitating service or care which cannot be adequately provided by the facility, residents are promptly transferred to another appropriate facility;
- (d) policies define the use of chemical and physical restraints, identify the professional personnel who may authorize the application of restraints in emergencies and describe the mechanisms for monitoring and controlling their use;
- (e) policies define procedures for submission of complaints and recommendations by residents and for assuring response;
- (f) each resident of the facility—
 - (i) is fully informed of his rights and responsibilities as a resident and prior to or at the time of admission, he, his next of kin or legal guardian is provided with a list of resident's rights;
 - (ii) is fully informed by a physician of his health and medical condition, and of his right to refuse treatment on religious or other grounds;
 - (iii) is transferred or discharged only for medical reason, or for his welfare or that of other residents or for non-payment for his stay;
 - (iv) is encouraged and assisted throughout his period of stay to exercise his rights as a resident and as a citizen;
 - (v) is treated with consideration, respect and full recognition of

his dignity and individuality including privacy in treatment and in care for his personal needs;

- (vi) may communicate, associate and meet privately with persons of his choice unless to do so would infringe upon the rights of other residents, and send and receive his personal mail unopened;
- (vii) may participate in activities of social, religious and community groups at his discretion unless contraindicated for reasons documented by a physician in the resident's medical record; and
- (viii) may retain his personal clothing and possessions as space permits.

Manager

22. (1) Every Home for Older Persons shall have a named Manager who shall ensure at all times there is present on the premises, an officer who shall be responsible for the operations of the Home.

(2) A Manager shall possess such qualifications as may be prescribed by the Regulations, and the licensee of a Home for Older Persons may, if so qualified, be the Manager of the Home.

(3) During the temporary absence, illness or incapacity of the Manager, the licensee may, without giving notice to the Minister, appoint as acting Manager any other person qualified in accordance with this Act and the Regulations, and every person so appointed shall, while he so acts, be considered for the purposes of this Act to be the Manager.

(4) Where at any time a Home for Older Persons is used as such while it has no duly qualified Manager, the licensee commits an offence.

23. (1) The licensee of every Home for Older Persons shall keep or cause to be kept a register of the residents ^{Register of residents and particulars of death} in which shall be entered—

- (a) the name, age, date of birth, sex and the last known address of each resident;
- (b) date of admission to the Home;
- (c) each resident's diagnosis, prognosis and medical history;
- (d) information on the nearest relative or other person who is responsible for the resident;
- (e) the name of the medical practitioner if any, attending each resident;
- (f) the name of a primary contact person;
- (g) the date on which each resident leaves the Home or is transferred to another facility;
- (h) the date and particulars of death; and
- (i) such other particulars as may be prescribed by the Regulations.

(2) The particulars required by subsection (1) where applicable, shall be entered in the register within forty-eight hours after the occurrence of the act or event to which the entry relates.

(3) The Manager shall within twenty-four hours report to the Police the death of a resident occurring within six hours of admission of that resident.

(4) A person who knowingly makes a false entry in a register of residents commits an offence.

(5) A licensee who fails to make an entry in the register or a report required to be made under this section commits an offence.

Monthly report

24. The Manager shall provide the Division of Aging with a monthly report on the status of each resident.

Restrictions on number of residents

25. Where, except in the case of an emergency not exceeding seven days or such further time as may be authorised by the Minister—

(a) a Home for Older Persons is used at any time for the treatment of a greater number of residents than is permitted by the licence; or

(b) a resident of a class not permitted by the licence is admitted,

the licensee and the Manager each commits an offence.

Approval to be obtained for structural alterations
Chap. 35:01

26. (1) Subject to the provisions of the Town and Country Planning Act, no structural alteration or addition to any Home for Older persons shall be made until a plan of the proposed alteration or addition has been submitted to and approved by the Town and Country Planning Division, the Division of Aging or the Minister.

(2) Where any alteration or addition is made in contravention of subsection (1), the licensee of the Home for Older Persons commits an offence.

Home to be open to inspection

27. For the purposes of this Act and the Regulations made under it, a Home for Older Persons, its registers and other records other than confidential case history notes, shall at all times be open to inspection or examination by a Facility Review Team.

Facility Review Team

28. For the purposes of this Act “Facility Review Team” means a team consisting of—

(a) a Medical Practitioner specialized in Geriatric Care;

(b) a Medical Social Worker;

- (c) a Fire Officer;
- (d) a Public Health Inspector;
- (e) an Auditor;
- (f) a Health Quality Control Officer;
- (g) a Senior Nursing Manager;
- (h) a Social Psychologist; and
- (i) a Civil Engineer or Architect.

29. (1) Every Home for Older Persons shall be inspected and any aspect of its administration, operation or management shall be examined at least once a year by the Facility Review Team.

(2) In addition to the inspection and examination referred to in subsection (1) the Facility Review Team shall inspect a Home for Older Persons when so directed by the Minister.

(3) Where the Facility Review Team has reasonable grounds to believe or to suspect that a building is used as a Home for Older Persons without being licensed, it may, upon presentation of certificates of appointment, at any time and at the request of the Minister and from time to time with such assistance as it may require, enter and inspect any such building.

30. (1) The Facility Review Team, shall, subject to subsection (2), forward a report to the Minister within fourteen days of the completion of the inspection or examination.

(2) A report on the inspection or examination conducted by the Facility Review Team at the instance of the Minister shall be forwarded to the Minister and the Board within forty-eight hours of the completion of the inspection or examination.

31. Any person who obstructs or prevents or attempts to obstruct or prevent an inspection of a Home for Older Persons by the Facility Review Team commits an offence.

PART V

MISCELLANEOUS PROVISIONS

Offences of corporate bodies

32. Where a body corporate contravenes this Act, the Chairman, President and every director or officer thereof concerned in the management of the body corporate commit the same offence unless any of the persons named herein proves that the act constituting the offence took place without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Burden of proof

33. In a prosecution for an offence under this Act, the burden of proving that a licence is in force, on its terms, and that, a person apparently having the charge, control or management of a Home for Older Persons is not the Manager thereof within the meaning of this Act, shall be upon the person charged.

Transitional Provision

33A. Nothing in this Act shall affect the operation of a Home for Older Persons within six months of the coming into force of this Act.

Regulations

34. (1) The Minister may make Regulations to give effect to this Act and without limiting the generality of the foregoing, may provide for the following in relation to Homes for Older Persons:

- (a) specifications for construction, establishment, licensing, alteration, safety, equipment, maintenance and repair;
- (b) the minimum standards of care;
- (c) the inspection, control, management, conduct, operation and use;
- (d) prescribing the qualifications, powers and duties of Managers and staff;
- (e) prescribing the powers and duties of the Facility Review Team;

- (f) the admission and care of residents and the control of the admission of any type of resident into Homes offering appropriate services;
- (g) the keeping of records, books, reports and returns;
- (h) the submission of reports and returns to the Minister;
- (i) prescribing anything authorised or required to be prescribed by this Act;
- (j) procedures for dealing with complaints arising from this Act; and
- (k) application fees.

(2) Regulations made under this section may prescribe in respect of any contravention thereof, a penalty not exceeding a fine of ten thousand dollars or imprisonment for one year on summary conviction.

FIRST SCHEDULE

(Section 8)

1. The full name, address, qualifications and occupation of the applicant.
2. A statement of the estate or interest of the applicant in the house in respect of which the licence is applied for.
3. A statement of the number of residents proposed to be admitted to the Home and to each apartment of the Home.
4. A description of the situation of the Home.
5. A sketch plan of the Home.
6. Showing the location and the intended use of each room.
7. A statement of the sanitary arrangements, ventilation and water supply of the Home.
8. A full description of the fire escapes of the house and the facilities provided for use in case of fire.
9. A statement as to the classes of residents proposed to be admitted.
10. Staffing arrangements including the number of staff and the qualifications and skill of each member of the staff of the proposed Home.

SECOND SCHEDULE

LICENCE FEES FOR HOMES FOR OLDER PERSONS

Type of Home for Older Persons	No. of Residents	Level of Care Provided	Fees

Passed in the House of Representatives this 8th day of May, 2000.

J. SAMPSON-JACENT

Clerk of the House

Passed in the Senate this 11th day of July, 2000.

D. DOLLY

Acting Clerk of the Senate

Senate amendments agreed to by the House of Representatives this 21st day of July, 2000.

J. SAMPSON-JACENT

Clerk of the House