

**THE CHILDREN'S COMMUNITY RESIDENCES, FOSTER HOMES
AND NURSERIES BILL, 2007**

Arrangement of Clauses

Clause

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**THE CHILDREN'S COMMUNITY RESIDENCES, FOSTER HOMES AND
NURSERIES (AMENDMENT) BILL, 2007**

EXPLANATORY NOTE

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

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

Clause 1 and 2 would provide for the short title and interpretation provisions.

Clause 3 would amend section 2 of the Act by inserting, deleting and substituting certain definitions.

Clause 4 would change the title to Part II of the Act.

Clause 5 would amend section 3 of the Act which deals with the requirement to be licensed.

Clause 6 would amend section 4 of the Act to mandate the Children's Authority to respond to an application for a residence licence within six months and to give reasons for refusal where a request for same is made by an unsuccessful applicant.

Clause 7 would amend section 5 of the Act to make it mandatory for a person who intends to operate a community residence to apply for a residence licence and for the Children's Authority to issue such licence where it is satisfied that the residence complies with requirements.

Clause 8 would amend section 6 of the Act which provides the requirements to be satisfied for a residence licence to be granted.

Clause 9 would amend section 8 of the Act to extend the period for which a licence is valid in circumstances where the determination of an application for renewal is pending.

Clause 10 would amend section 9 of the Act which deals with the conditions of residence licence.

Clause 11 would amend section 11 of the Act by inserting a new section 11A to provide for giving notice of revocation of a licence.

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

Clause 13 would amend section 13 of the Act to delete a reference to a “youthful offender”.

Clause 14 would amend section 14 of the Act which deals with appeals to make the language consistent with that of the Civil Proceedings Rules of Trinidad and Tobago.

Clause 15 would amend section 15 of the Act which deals with the transfer of children from a community residence that ceases to be a licensed community residence.

Clause 16 would amend section 16 of the Act.

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

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

Clause 19 would amend section 19 of the Act which provides that publication in the *Gazette* and a certificate purporting to be signed by the manager of a community residence is sufficient evidence of certain matters.

Clause 20 would amend section 22 of the Act which deals with the requirements of a manager of a community residence.

Clause 21 would amend section 23 of the Act.

Clause 22 would amend section 25 of the Act to provide a time frame of sixty days, after the Act comes into operation, for an existing community residence to supply certain information to the Children’s Authority.

Clause 23 would amend section 27 of the Act to transfer the Authority to issue a warrant to enter and inspect community residences to the Court.

Clause 24 would delete section 28 of the Act and substitute a new section to provide for the establishment of a foster care system to be managed by the Children’s Authority.

Clauses 25 would amend section 29 of the Act which deals with applications by persons who wish to become foster parents.

Clause 26 would amend section 30 of the Act to provide that the Children's Authority shall keep a Register.

Clause 27 would delete and substitute a new section 31 of the Act which would require the Children's Authority to provide training to foster parents.

Clause 28 would amend section 32 of the Act to increase the penalty for a foster parent who fails or neglects to look after the health, education and welfare of a foster child from five hundred dollars to ten thousand dollars and twelve months imprisonment.

Clause 29 would amend section 33 of the Act which deals with the refusal by a foster parent to permit entry to an authorized officer.

Clause 30 would amend section 34 of the Act.

Clause 31 would amend section 35 of the Act.

Clause 32 would amend section 37 of the Act which prohibits the publication and advertising of foster care services.

Clause 33 would amend section 41 of the Act which exempts certain persons from the provisions of Part IV.

Clause 34 would amend section 42 of the Act to provide definitions to certain words used in Part V.

Clause 35 would amend section 43 of the Act which deals with the applications for a nursery licence by the operator of existing nurseries.

Clause 36 would amend section 44 of the Act to make it mandatory for a person who intends to operate a nursery to apply for a residence licence and for the Children's Authority to issue such licence where it is satisfied that the nursery complies with requirements.

Clause 37 would amend section 45 of the Act which provides the requirements to be satisfied by an applicant for a nursery licence.

Clause 38 would delete and substitute section 47 of the Act to make it an offence to operate a nursery without a licence or to fail to comply with the requirements of a licence. A person convicted of this offence would be liable to a penalty of five thousand dollars.

Clause 39 would amend section 49 of the Act.

Clause 40 would amend section 50 of the Act which deals with the revocation of a nursery licence.

Clause 41 would amend section 51 of the Act which provides the procedure for appealing a refusal of an application for or revocation of a nursery licence.

Clause 42 would amend section 53 of the Act which gives the Children's Authority the power to make certain Regulations with the approval of the Minister.

Clause 43 would delete and substitute section 54 of the Act.

A BILL

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

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Children's Community Residences, Foster Homes and Nurseries (Amendment) Act, 2006.
Interpretation Act No. 65 of 2000	2. In this Act "the Act" means the Children's Community Residences, Foster Homes and Nurseries Act, 2000.
Section 2 amended	3. The Act is amended in section 2 – (a) by inserting in the correct alphabetical order the following new definitions: " "care order" means an order made by the Court pursuant to section 25(c) of the Children's Authority Act; "community register" means the register of children in the care of a community residence kept in accordance with section 22"; "Manager" means a person who operates a community residence in accordance with the provisions of section 21; "nursery licence" means a licence issued under section 44"; "relative" includes a parent, step-parent, grand-parent, brother, sister, uncle or aunt";
Act No. 64 of 2000	(b) in the definition of "Children's Home", by deleting the words "Children's Act" and substituting the following words "Children Act";
	(c) by deleting the definition of "community residence" and substituting the following new definition: " "community residence" means a Children's home or

rehabilitation centre and includes Industrial Schools and Orphanages referred to in the Children Act;”;

- (d) by deleting the definitions of “Community Service” and “Detention Order”;
- (e) in the definition of “Register of residences”, by deleting the word “residences” and substituting the word “Residences”; and
- (f) in the definition of “rehabilitation centre”, by deleting the words “industrial school as defined to” and substituting the following words “Industrial Schools as defined”.

PART II
amended

4. The Act is amended in Part II by deleting the title and substituting the following new title: “LICENSEES OF COMMUNITY RESIDENCES”.

Section 3
amended

5. The Act is amended in section 3 –

- (a) in subsection (2), by inserting after the word “issued” the words “to an operator”; and
- (b) by inserting after subsection (2) the following new subsection:

“(3) In this Part “licensee” means the person to whom a residence licence is granted under section 5.”.

Section 4
amended

6. The Act is amended in section 4 –

- (a) subsection (1), by deleting the words “All existing community residences shall within three months upon” and substituting the following words “All operators of existing community residences shall within three months upon the”; and
- (b) in subsection (2), by deleting the word “may” and substituting the word “shall”; and

- (c) by inserting after subsection (2) the following new subsection:
 - “(3) Where the Authority refuses to grant a licence it shall, upon request by the applicant, give its reasons for refusal in writing.”.

Section 5
amended

- 7. The Act is amended in section 5 –
 - (a) subsection (1), by deleting the word “may” and substituting the word “shall”; and
 - (b) in subsection (3), by deleting the word “may” and substituting the word “shall”.

Section 6
amended

- 8. The Act is amended in section 6 –
 - (a) by deleting the words “Residence Licence” appearing in the *chapeau* and substituting the words “residence licence”;
 - (b) in paragraph (a), by deleting the words “Health and Building Authorities” and substituting the words “health and building authorities”; and
 - (c) in paragraph (b), by deleting the words “taking into account the ages, the number of children it caters for as well as any special requirement” and substituting the words “taking into account the ages of and the number of children it caters for, as well as the requirements”.

Section 8
amended

- 9. The Act is amended in section 8 –
 - (a) subsection (1), by deleting the word “may” and substituting the word “shall”; and
 - (b) by inserting after subsection (2) the following new subsection:
 - “ (2A) Notwithstanding subsection (2), where an application is made for the renewal of a residence licence, the existing licence shall remain valid until the determination of the application by the Authority.”.

Section 9

- 10. The Act is amended in section 9, in subsection (1) subparagraph (b), by

amended

deleting the words “the person to whom a Residence Licence is granted under section 5 (hereinafter referred to as the “licensee”)” and substituting the words “the licensee”.

Section 11
amended

11. The Act is amended in section 11-

- (a) by deleting the word “Notice” wherever it occurs and substituting the word “notice”;
- (b) by inserting after section 11 the following new section:

“Notice of revocation 11A.(1) The Authority shall serve on the licensee written notice of its intention to revoke a residence licence fourteen days prior to the date of revocation.

(2) A notice revoking a residence licence shall state the grounds on which the Authority intends to revoke the residence licence and where corrective measures are possible, shall require that they be taken within such time as the Authority shall specify in the notice.

(3) Notwithstanding subsection (1), where no corrective measures are possible the notice of the revocation licence shall take immediate effect.”.

Section 12
amended

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

Section 13
amended

13. The Act is amended in section 13 by deleting the words “youthful offender or”.

Section 14
amended

14. The Act is amended in section 14, in subsection (3),

- (a) by deleting the words “originating summons” and substituting the words “Fixed Date Claim”; and
- (b) by deleting the words “Judge in Chambers” and substituting the

word “Judge”.

Section 15
amended

15. The Act is amended in section 15, by deleting the full stop at the end of the section and inserting the words “or residences and may transfer any or all of such children at any time after the date of a notice of surrender to the residence licence under section 12.”

Section 16
amended

16. The Act is amended in section 16 by deleting the words “final decision” and substituting the words “issuance, revocation or surrender of such residence licence”.

Section 17
amended

17. The Act is amended in section 17 –

- (a) by inserting the word “(1)” after the number 17;
- (b) by deleting the word “condition” and substituting the word “conditions”;
- (c) by inserting after the phrase “commits an offence and” the word “shall”; and
- (d) by inserting after subsection (1) the following new subsection:
 - “ (2) Subsection (1) shall not apply where such person has submitted an application for a residence licence to the Authority pursuant to section 5 and has not received notice of the refusal of such application.”.

Section 18
amended

18. The Act is amended in section 18, subsection (2) by inserting after the word “Register” the words “of residences”.

Section 19
amended

19. The Act is amended in section 19 –

- (a) in subsection (1), by deleting the word “withdrawal” and inserting the word “revocation”; and
- (b) in subsection (2), by deleting the words “youthful offenders or”.

Section 22

20. The Act is amended in section 22 –

amended

- (a) by deleting the word “manager” and substituting the word “Manager”;
- (b) in paragraph (a) by deleting the word “Register” and substituting the word “register”;
- (c) in paragraph (a) by deleting the word “community” in the second place where it occurs; and
- (d) in paragraph (c), by deleting the word “thereunder” and substituting the word “hereunder”.

Section 23
amended

21. The Act is amended in section 23, in subsection (2) by inserting the word “shall” before the words “whenever so required”.

Section 25
amended

22. The Act is amended in section 25, in subsection (1) by inserting after the word “shall” the words “within sixty days”.

Section 27
amended

23. The Act is amended in section 27, in subsection (2), by deleting the words “by the Authority” and substituting the words “by the Court”.

Section 28
amended

24. The Act is amended in section 28, by deleting the section and substituting the following new section:

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

Section 29
amended

25. The Act is amended in section section 29 –

- (a) by deleting the word “Minister” wherever it occurs and substituting the word “Authority”;
- (b) by inserting after subsection (2), the following subsections –
 - “(3) In determining the suitability of the applicant to be a foster parent regard must be had to the following factors:
 - (a) continuity in a child’s upbringing;
 - (b) ethnicity;
 - (c) religion;
 - (d) culture;

- (e) linguistic background;
- (f) age;
- (g) good character;
- (h) physical, mental and emotional health; and
- (i) education and appropriate training.

(4) In determining the suitability of the home of an applicant to receive a child for foster care regard must be had to the following factors:

- (a) physical factors;
- (b) security of premises;
- (c) psychosocial atmosphere;
- (d) cleanliness of premises;
- (e) safety of premises; and
- (f) such other factors relevant to the care and protection of the foster child;

(b) by renumbering subsection (3) as subsection (5);

(c) in subsection (5) by –

- (i) inserting a semi colon after the words “foster child” in subparagraph (a) and deleting all the words appearing thereafter;
- (ii) deleting the word “and” after the words “foster care;” in subparagraph (b);
- (iii) deleting the full stop at the end of subparagraph (c) and by inserting a semi colon; and
- (ii) by inserting after subparagraph (c), the following subparagraph:

“(d) “foster home” means the home of a foster parent”.

Section 30
amended

26. The Act is amended in section 30 by –

- (a) renumbering section 30 as section 30(1);
- (b) deleting the word “Minister” and substituting the word “Authority”;

(c) inserting the following new subsections:

“ (2) Approved foster parents shall be subject to annual reviews by the Authority.

(3) Notwithstanding subsection (2), the Authority may at any time cancel the registration of an approved foster parent.

(4) The Authority shall give written notification of the cancellation of registration to foster parent.”.

Section 31
amended

27. The Act is amended in section 31 by –

(a) deleting section 31 and substituting the following:

“Foster parents
to be trained 31. (1) Where an applicant is found suitable to be made a foster parent, the Authority shall cause the applicant and members of his household to be trained in the roles, functions and duties involved in foster care.

(2) The Authority shall train and re-train foster parents biennially.

(3) Upon completion of the training referred to in subsection (1), the Authority shall determine what type of resources would be necessary to assist a foster parent.”.

Section 32
amended

28. The Act is amended in section 32, in subsection (3), by deleting the words “five hundred dollars” and substituting the words “ten thousand dollars and twelve months imprisonment”.

Section 33
amended

29. The Act is amended in section 33-

(a) in subsection (1), by inserting after the words “admission to any premises” the words “where a foster child is being kept”;

(b) in subsection (2)-

(i) by deleting the word “if” and substituting the word “is”;

(ii) by deleting the word “is” and substituting the word “are”; and

- (iii) by deleting the word “therein” and substituting the word “therefrom”.

Section 34
amended

30. The Act is amended in section 34, subsection (2), by inserting a full stop after the words “six months” and deleting all the words appearing thereafter.

Section 35
amended

31. The Act is amended in section 35-
- (a) in subparagraph (a), by deleting the word “is” and substituting the word “are”; and
- (b) by renumbering subparagraphs “(e)” and “(f)” as “(i)” and “(ii)” respectively.

Section 37
amended

32. The Act is amended in section 37, in subsection (1), by deleting the word “or” and substituting the word “and”.

Section 41
amended

33. The Act is amended in section 41 –
- (c) in subparagraph (a), by deleting the words “a child”, in the second place where it occurs, and substituting the words “that child”; and
- (d) in subparagraph (b), by deleting the words “as a fit person”, and substituting the words “named as a fit person pursuant to section 23 (1) of the Children Act or other statutory provision. ”; and
- (e) by inserting after subparagraph (b), the following:
- “(c) any person who has been granted a release on licence under section 56 (1) of the Children Act, or into whose care a child has been released from a community residence under section 57 of the Children Act.”

Section 42
amended

34. The Act is amended in section 42 –
- (a) in subsection (1) by inserting after the word “issued” the words “to an operator”;
- (b) by deleting subsection (3) and substituting the following new subsection:
- “In this Part –

(a) “nursery” includes “day care” and means any premises used for the care of children under the age of six years for material reward and for periods which exceed one hour provided however that ordinary domestic facilities for the care of children shall not be included; and

(b) “licencee” means the person to whom a nursery licence is granted under section 44.

Section 43
amended

35. Section 43 of the Act is amended –

(a) in subsection (1) –

(i) by inserting after the word “All” the words “operators of”; and

(ii) by deleting the words “Residence Licence” and substituting the words “nursery licence”;

(b) in subsection (2), by deleting the word “may” and substituting the word “shall”; and

(c) by inserting after subsection (2), the following:

“(3) Where the Authority refuses to grant a licence it shall, upon request by the applicant, give its reasons for refusal in writing.”

Section 44
amended

36. The Act is amended in section 44 –

(a) in subsection (1), by deleting the word “may” and substituting the word “shall”; and

(b) in subsection (3), by deleting the word “may” and substituting the word “shall”.

Section 45
amended

37. The Act is amended in section 45 –

(a) by deleting paragraph (a) and substituting the following new paragraph:

“(a) made adequate arrangements for the health care, safety, security, well being and suitable feeding of the children received in the nursery;”;

(b) in paragraph (c) –

(i) by deleting the word “provisions” and substituting the word “provision”;

(ii) by deleting the word “premises” and substituting the word “nursery”;

(c) in paragraph (d) by inserting the word “made” before the word “provision”; and

(d) in paragraph (e) by deleting the word “premises” and substituting the word “nursery”.

Section 47
amended

38. The Act is amended by deleting section 47 and substituting the following new subsection:

“ 47.(1) Any person who operates a nursery -

(a) without a licence issued by the Authority; or

(b) who fails to comply with any of the requirements specified in section 45,

commits an offence and is liable on summary conviction to a fine of five thousand dollars.

(2) Subsection (1)(a) shall not apply where such person has submitted an application for a nursery licence to the Authority pursuant to section 43 and has not received notice of the refusal of such application.”.

Section 49
amended

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

Section 50
amended

40. The Act is amended in section 50 by deleting subsections (2) and (3) and substituting the following:

“ (2) Every such notice shall state the grounds on which the Authority intends to revoke the nursery licence and where corrective measures are possible, shall require that they be taken within such time as the Authority shall specify in the Notice.

(3) Where no corrective measures are possible the notice shall revoke the licence with immediate effect.”.

Section 51
amended

41. The Act is amended in section 51 –

(a) in subsection (1) –

(i) by inserting immediately after the words “refused or” the words “revoked or”;

(ii) by inserting after the phrase “against such refusal or revocation” the words “or proposed revocation”;

(b) in subsection (2) by deleting paragraph (c) and substituting the following new paragraph:

“(c) may direct the Authority to withdraw such notice and the Authority shall comply with any direction given to it by the Minister under this subsection.”;

(c) in subsection (3) –

(i) by deleting the word “withdrawal” and substituting the word “revocation”;

(ii) by inserting after the phrase “Judge in Chambers” the words “of the High Court”.

Section 53
amended

42. The Act is amended in section 53 –

(a) in subsection (1), by deleting the word “may” and substituting the word “shall”;

(b) by deleting subsection (2) and substituting the following

subsection:

“ (2) Regulations made under this Act shall be subject to negative resolution of Parliament.”.

Section 54
amended

43. The Act is amended by deleting section 54 and substituting the following section:

“ 54. Where in any other written law reference is made to an orphanage or industrial school such references shall be read as references to a children’s home or a rehabilitation centre respectively.”.

Passed in the House of Representatives this day of , 2007.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2007.

Clerk of the Senate

I confirm the above.

President of the Senate